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Herbert Rowse Armstrong

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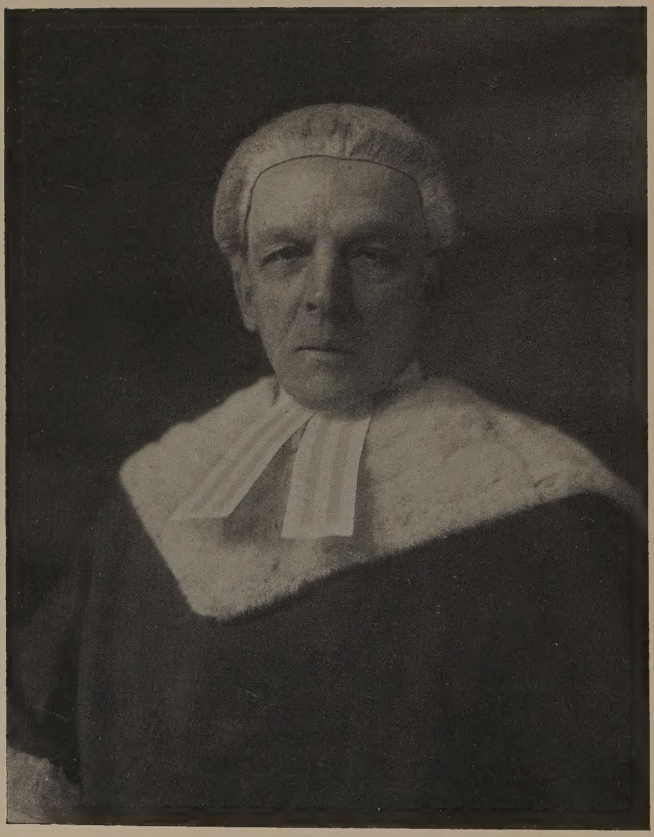

Darling

Trial of

Herbert Rowse Armstrong

EDITED BY

Filson Young

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PREFACE.

SEVERAL features combine to invest the trial of Herbert Rowse Armstrong with remarkable interest in the annals of arsenical poisoning. Among the murderers of his class Armstrong might be described as the tea-time poisoner. As in the case of Seddon the theme was gold and moneybags, so Armstrong's was the crime of the tea table; and there runs through his sinister story, in place of the chink of gold, the tinkle of the teacups. His was a simple and ingenious method, if people would only come to tea. Tea is an inexpensive meal, easily and quickly prepared. If people will not come to tea, it can be brought to them; and either butter or tea itself is an admirable vehicle in which to administer arsenic. One has only to read the evidence to hear how the word "tea" rings through it in page after page. How Miss Pearce got tea ready and told Armstrong about it; how the servant prepared the cake stand first, then the tea, and brought it in; and how Armstrong came in to tea, and invited Mr. Martin to tea, and how they sat at tea in the drawing-room, these two solicitors; and how Armstrong was always suggesting that the Martins should come to tea; how, finally, both men brought tea down to their offices—Armstrong in order to induce Martin to come and have it, and Martin in order to provide an excuse for not coming. All this gives a peculiar quality—or shall I say aroma?—to the Armstrong case.

Mr. Justice Darling, who tried the case, himself characterised it as a "deeply interesting case, and one of very great importance to the public." This alone would justify its inclusion in the Notable Trials Series; but it had other unusual features. Armstrong was tried for the murder of his wife; but if he had been acquitted of that there was another charge on the indictment accusing him of the attempted murder of Mr. Martin, a fellow-solicitor, evidence as to which was ruled by the learned judge

to be admissible as evidence on the major charge. And there is considerable support for the view that if the exhumation of Mrs. Armstrong's body, ten months after its burial, had not revealed the presence of arsenic and led to the conviction of the prisoner, other graves would have been disturbed and other tragedies, now mercifully hidden for ever, would have been brought to light. The arsenic actually found in Mrs. Armstrong's body was the largest amount ($3\frac{1}{2}$ grains) that had ever been discovered by Mr. Webster, the Home Office analyst, in a post-mortem examination.

The case is further memorable as being the first great capital case in which a prisoner was defended by Sir Henry Curtis Bennett, who has so rapidly risen to eminence in his profession. And it is still more worthy of record as being the last murder case tried by Mr. Justice Darling, undoubtedly the greatest criminal judge, as well as one of the most distinguished men, of his day. The firmness and certainty with which he handled a most difficult case were exemplary; but the unconventional common sense of some of his utterances, and the piercing and clean-cut analysis to which he subjected the essential evidence could only have safely been employed by a judge equipped, like him, with immense experience, the most lucid mentality, and the clearest understanding of the ultimate character of justice. I have followed Lord Darling's career for five-and-twenty years; and although every case over which he has presided has, if only because it was in his hands, been an interesting case, his qualities were never shown, I think, to more advantage than in this last great trial just before his retirement.

To many people I owe acknowledgments of help received in the editing and study of this trial; notably to Lord Darling himself, and to the Public Prosecutor, Sir Archibald Bodkin; to Mr. James, under-sheriff of Herefordshire; to Lord Hanworth and Sir Henry Curtis Bennett; to Dr. Hincks and Mr. Trevor Griffiths, of Hay; to the proprietors of *The Times* for permission to make use of their reports of the arguments as to admissibility of evidence, the opening statement for the Crown, and of the proceedings in the

Court of Criminal Appeal; to the medical experts concerned, who have been good enough to revise the proofs of their evidence; and to the Editor of *John Bull* for permission to quote a remarkable article contributed at the time to that journal by Mr. Harold Greenwood.

In common with the other Editors of this series, I owe much to the criticism, assistance, and supervision of Mr. Harry Hodge, who is not only the originator and publisher of the series, but may suitably be called its Editor-in-Chief. To his enterprise the series owes its origin, and to his skill and enthusiasm its success. I think I am expressing the views of all my fellow Editors when I say that to share this work with him is both a privilege and a pleasure.

F. Y.

CONTENTS.

PAGE

Introduction, - - - - - - - - - - - - - - 1
Leading Dates in Armstrong Trial, - - - - - - - - - 21

The Trial—

FIRST DAY—MONDAY, 3RD APRIL, 1922.

Attorney-General's Opening Speech for the Crown, - - - - - - 25
Legal Arguments on Evidence, - - - - - - - - - - 28
Attorney-General's Opening Speech (continued), - - - - - - - 30

SECOND DAY—TUESDAY, 4TH APRIL, 1922.

Evidence for the Prosecution.

Ida Bessie Friend, - - - 33
Augusta Gertrude Hutchins, - 35
Henry John Hammonds, - - 35
Inez Elsie Rosser, - - - 36
Emily Ellen Pearce, - - - 36
Lily Evans, - - - - 43
Harriet Elizabeth Price, - - 44
Muriel Gladys Kinsey, - - 45

THIRD DAY—WEDNESDAY, 5TH APRIL, 1922.

Evidence for the Prosecution (continued).

Eve Allen, - - - - - - 48
Lucy Alice Lloyd, - - - 55
John Arthur Rangecroft, - - 56
Humphrey Vines Webb, - - 56
Mrs. ———, - - - - - 57
Arthur Chevalier, - - - 58
Robert MacGeorge, - - - 63
William Jay, - - - - 63
Oswald Norman Martin, - - 64

FOURTH DAY—THURSDAY, 6TH APRIL, 1922.

Evidence for the Prosecution (continued).

Oswald Norman Martin (examination continued), - - 68
Constance Muriel Martin, - - 73
Una Mary Baker, - - - 74
Allan Preen, - - - - 76
Dr. Thomas Ernest Hincks, - 77

FIFTH DAY—FRIDAY, 7TH APRIL, 1922.

Evidence for the Prosecution (continued).

Dr. Thomas Ernest Hincks (examination continued), - - 89
Dr. Arthur A. D. Townsend, - 103
John F. Davies, - - - - 110
John Hird, - - - - - 113
Deputy Chief Constable A. Weaver, - - - - - - 115
Chief Inspector Alfred Crutchett, 116
Statement by Accused, - - 117
Chief Inspector Alfred Crutchett, (continued), - - - - 120
Police Sergeant Walter Sharp, - 123

SIXTH DAY—SATURDAY, 8TH APRIL, 1922.

Evidence for the Prosecution (concluded).

Superintendent Weaver (recalled), - - - - - - 124
Harriet Elizabeth Price (recalled), - - - - - - 124
Edwin Alfred Taylor, - - 125
Dr. Bernard Henry Spilsbury, - 126
John Webster, - - - - - 148
Sir William Henry Wilcox, - 153

SEVENTH DAY—MONDAY, 10TH APRIL, 1922.

Opening Speech for the Defence, - - - - - - - - - - - 170

Evidence for the Defence.

Herbert Rowse Armstrong, - - - - - - - - - - - - 201

EIGHTH DAY—TUESDAY, 11TH APRIL, 1922.

Evidence for the Defence (continued).

Herbert Rowse Armstrong (cross-examination continued), - - 221
Inez Margaret Price, - - - 242
Emily Davis, - - - - - 242
Thomas Alfred Matthews, - - 243
Henry Reginald Chivers, - - 252
Dr. Frederick Sherman Toogood, 253

NINTH DAY—WEDNESDAY, 12TH APRIL, 1922.

Evidence for the Defence (concluded).

Dr. Frederick Sherman Toogood (cross-examined), - - - - 259
Dr. William Ainslie, - - - - 269
Dr. John Steed, - - - - 276
Thomas Alfred Matthews (recalled), - - - - - - 278
Sir Henry Curtis Bennett's Closing Speech for the Defence, - - - 280

TENTH DAY—THURSDAY, 13TH APRIL, 1922.

Attorney-General's Closing Speech for the Crown, - - - - - - 300
Mr. Justice Darling's Charge to the Jury, - - - - - - - - 320
The Verdict, - - - - - - - - - - - - - - - 357
The Sentence, - - - - - - - - - - - - - - 358

APPENDICES.

Appendix A. Proceedings in the Court of Criminal Appeal, - - - 363
Appendix B. "Armstrong's Fight for Life." By Harold Greenwood, - 394

LIST OF ILLUSTRATIONS.

Lord Darling, - - - - - - - - - - - - *Frontispiece*

Herbert Rowse Armstrong, - - - - - - - - *Facing page* 24

Mrs. Armstrong, - - - - - - - - - - ,, 48

Sir Henry Curtis Bennett, K.C., - - - - - - - ,, 170

The Attorney-General, Sir Ernest M. Pollock, Bart., K.C., - ,, 300

HERBERT ROWSE ARMSTRONG.

INTRODUCTION.

I.

The little town of Hay in Brecon lies pleasantly just over the Welsh border (its railway station is in England) along the right bank of the River Wye, surrounded in the near distance by such wild hills as Hay Bluff, Lord Hereford's Knob, and the Brecon Beacons. It is a sunny, quaint little place, with irregular, old-fashioned houses and a broad High Street pleasantly lending itself to gossip and the observation of other people's affairs; and behind its quiet gardens, with an endless ripple and chime, runs the river in broad and shining reaches.

II.

The legal business of the town and of the farmers in the neighbouring countryside was, in the year 1906, when this story opens, conducted by two firms of solicitors (both of old standing), whose offices faced one another across the main street. The head of one firm was Mr. Cheese, and of the other Mr. Griffiths. In 1906 came Mr. Herbert Rowse Armstrong as managing clerk to Mr. Cheese. He was thirty-seven years of age, but had been admitted a solicitor in 1895, and had been in partnership and practising on his own account over two years in Newton Abbot, his native town, as well as in Liverpool. Although of humble origin, he had been carefully educated by two maiden aunts, who, at some sacrifice, had enabled him to attend the University of Cambridge, where he graduated M.A. He had worked hard in Newton Abbot and in Liverpool, and had saved, or got, enough money to put capital into Mr. Cheese's business and to become a partner very soon after his arrival in Hay. And very soon after that Mr. Cheese and his wife both died, leaving Armstrong in sole possession of the business. A year later Armstrong married a

Miss Katherine Mary Friend, and in 1907 brought her to live in a little house in the delightful coombe called Cusop Dingle, within half a mile of Hay, where many of the inhabitants have villas. Three years later he moved to a larger house a few hundred yards away called "Mayfield"—a house with a fairly large garden. During these years the three children of this marriage were born. In it they all lived until Mrs. Armstrong died, and was carried from it to Cusop Churchyard in February, 1921; and until Armstrong was arrested on the last day of the same year.

The war came and brought its changes to the lives of the people in Hay, as elsewhere. Armstrong had been a Volunteer, and had joined the Territorial branch of the Royal Engineers; and when the war came he went away and served in various parts of England. I believe he did not see any actual fighting, being chiefly engaged in depot work, where his experience as a solicitor would prove useful, and where he was still able to exercise some control over his own business. Mr. Griffiths was not so fortunate as his brother solicitor. He was getting on in years and was failing in health, and his son, who had passed his final law examination, but had not yet been admitted as a solicitor, was called away to the front. In these circumstances it became necessary for Mr. Griffiths to take a partner, and Mr. Oswald Norman Martin, who had served and been invalided out of the Army, came to join him. Mrs. Armstrong had called upon Mrs. Griffiths on hearing that a partner was coming, and had asked if her husband might not assist them. He had already made some tentative overtures on the subject of the amalgamation of the two firms, but they had not been favourably received, nor had anything come of the suggestion that he should stand by until the son could come home and take charge. After Armstrong had been demobilised and returned to Hay, Mr. Martin was in virtual charge of the business over the way. They met each other, of course; every one of a certain standing knows every one else in Hay; and they had professional dealings and social associations, but they were, in a sense, rivals. They were both, as the local people would say, foreigners, and in matters connected with his private affairs the Welsh farmer is not fond of employing strangers. Mr. Cheese had been long known in the place, and so had Mr. Griffiths. But when Armstrong found himself alone in his business, it undoubtedly began to fall off. It was a pity, from Armstrong's point of view,

that Mr. Martin was there to conduct actively the business brought to the old-established firm; if he had not been there circumstances might almost have forced them to make some arrangement with Armstrong. Anyhow, when the war was over, and people were beginning to take up the threads again, there were these two solicitors in Hay, their offices facing each other across the street, and there for the moment we will leave them.

III.

Armstrong was a popular man in Hay. On his return from the war he called himself Major Armstrong, and attached much importance to his military rank. He was very active in all the affairs of the place, and secured, among other appointments, that of clerk to the justices, which introduced his finger into many small local pies. Mr. Martin was not so popular. It was not in his character to seek popularity, and he suffered, as a result of his services to his country, from a form of paralysis which affected one side of his face, and sometimes gave people the impression that he was smiling when he was not. He was a quiet man, and lived his own life quietly. Armstrong, although he took pains to ingratiate himself with every one, was not at home the martial figure that his military career and gallant adventures might have led one to expect. It was common knowledge that he was, in fact, henpecked. The late Mrs. Armstrong was a person of peculiar character. She was both cultivated and clever, played the piano extremely well, and had earned the reputation with every one who had any knowledge of her of being a really good woman. She was, however, notoriously cranky, and extremely severe. She brought up her children with devotion, indeed, but with a strict and sombre austerity, and her husband was ruled with a rod of iron. Until the war broke his boundaries and enlarged his horizon little Armstrong (for he was a very little man, weighing only some 7 stone) had no kind of liberty at home, and, except for certain furtive, amorous adventures of which I have heard, he was obliged to live under the strict conditions imposed by his wife. These conditions were of an unusual severity. No wine or alcohol was admitted to the house. If at the table of some neighbour he was offered wine, his wife would interpose with a negative on his account, except now

and then when she had been known to say, "I think you may have a glass of port, Herbert; it will do your cold good." If he was smoking as he came along the road, and his wife came in sight, the cigar or pipe had to be hastily put away, and he was only allowed to smoke in one room of his house called "Mayfield." On one occasion, at a tennis party, she called to him in the middle of a sett that it was time to go home. "Six o'clock, Herbert; how can you expect punctuality in the servants if the master is late for his meals?" On another similar occasion, in publicly summoning him to come home, she reminded him that it was his "bath night." Such a state of affairs seems fantastic, but there is no doubt that it existed. For whatever reason, she had him thoroughly under her thumb, and (no doubt for his own good) was determined to keep him there. People liked the little man, and were sorry for him; but, however hard upon him they may have thought Mrs. Armstrong was, it did not diminish—who knows that it did not enhance?—that undoubted respect in which she was held by her neighbours.

IV.

This, then, was the course of the life of these people in Hay to the outward eye. Local events came and went. Local gossips talked of this or that person's affairs; people attended little parties, came and went as they do in all such places. Illness is always a topic for gossip in small country towns, and among the figures that move through the busy life of the place none was more universally regarded with interest and affection than Dr. "Tom" Hincks, who had succeeded to his father's practice in the place, and was known and trusted and liked for miles around. The big, upright figure with the open countenance and the charming smile was a familiar sight then, as it is to-day. Whatever he was doing, hunting up on the hills or shooting in the countryside, Dr. "Tom" always put his patients first; and often, if he were going out for a day's shooting, would get up at five in the morning and attend to his medical work and be busy on it up till midnight after he had come home. His presence in a house would indicate to the gossips that somebody was ill. It was rumoured in August, 1920, that Mrs. Armstrong was in indifferent health, and that her eccentricities had increased; and, sure

enough, on the 22nd of August, 1920, Dr. Hincks himself was seen taking her away in a motor car to Gloucester, where she was placed in Barnwood Private Asylum. Here was food for conversation. It was known that she suffered from acute depression and some kind of nervous affection of the hands which prevented her from playing the piano, and people's sympathy with her husband already increased when this new trial became known.

During her absence the little man enjoyed, it is true, a certain freedom. People were kind to him and asked him out. Heads, if they were wagged, were wagged in secret. Then, six months later, it was known that Mrs. Armstrong was much better, and was coming home. And in January, 1921, she came home, but began to fail again. A mental nurse was installed, and in February, 1921, people heard that Mrs. Armstrong was very ill, and that Dr. Hincks was calling every day. And on the 22nd of February this poor lady died, and, a few days later, was buried at Cusop Churchyard, near by her home. A friend, who was one of the four who attended the funeral, told me that Armstrong seemed quite unaffected, and was chatting about fishing rights while the coffin was being carried down. And on the following Sunday at the little village church, where the service was made a kind of memorial to the good lady, he read the lessons (so the sexton told me) with great eloquence and feeling.

V.

And so life was resumed once more; Major Armstrong took a new lease of it, and gave little dinner parties, at which alcohol was no longer banned. People came and went, got ill and got well, and so on. After one of Armstrong's little dinner parties the local inspector of taxes, who had done justice to the excellent Madeira provided by his host, was taken very ill on the way home and had a very bad night; and people who knew of it rather smiled. There was a good deal of illness in that autumn of 1921. Mr. Martin, for example, was ill for several days, and had to have Dr. Hincks in constant attendance. Now, among those people who did not accept Major Armstrong's invitations were Mr. and Mrs. Martin. But it was characteristic of the little man that he was not easily rebuffed, and so he gave continued invitations, and appeared to want to be friendly and

sociable, but could only on one occasion induce Martin to come to his house, and they had tea together. When further invitations to tea failed, Armstrong tried inviting the Martins to dinner, but even that was refused, and it was thought that business relations must be getting rather strained.

And then, suddenly, a series of bombshells fell. On New Year's Day, 1922, the town was dumbfounded to hear that Major Armstrong had been arrested the day before and charged with attempting to murder Mr. Martin. This roused the greatest indignation. People went so far as to suggest that it had been engineered by Martin on account of business rivalry. But still more astounding events happened the next day. Strange doctors came to the town; it was known that something was happening up at Cusop Churchyard; and then that Mrs. Armstrong's body had been exhumed that very morning and was being examined in a little cottage near the churchyard. Reporters descended apparently from the skies. Sensation after sensation was reported. Gossip upon gossip multiplied, and through five long months, until Armstrong was executed, the town was a centre of sensation and excitement such as is rarely experienced in such a place.

VI.

That was the outward course of events. Now let us glance at the events a little beneath the surface as they appeared to those two or three intimately engaged with the persons chiefly concerned, so that later we may go deeper still and examine some matters which were known to nobody at the time except possibly Armstrong himself.

When Armstrong was suddenly arrested on the 31st December, 1921, there were five people only in Hay who were not surprised. They were Dr. Hincks, Mr. and Mrs. Martin, Mr. Davies (Mr. Martin's father-in-law), and Mr. Trevor Griffiths. For the greater part of two months these people had been certain that Armstrong was trying to poison Mr. Martin, and that he had poisoned his own wife. They had been in communication with the Home Office, who had enjoined upon them the strictest secrecy and the necessity for not letting Armstrong have a glimmering of an idea that he was suspected. It was a dramatic and

eerie situation for these people, and the last three weeks must have been extremely trying.

Consider the facts. Only two months before Martin, after repeated invitations, had gone to tea with Armstrong at his house. There was a business difficulty between them, and he thought that Armstrong wished to discuss it, although, as a matter of fact, he never alluded to it. During tea he had handed Martin a buttered scone with the apology, "Excuse my fingers," and Martin had eaten that, as well as some currant loaf. He had hardly got home before he was seized with the most violent pains, with vomiting and diarrhœa, which continued throughout the night and reduced him swiftly to a condition of extreme weakness. Dr. Hincks was called in, and saw the usual symptoms of a severe bilious attack, and prescribed accordingly. But, as the sickness continued, he was (fortunately) not entirely satisfied, and he had an analysis made, and found in the sample submitted that there was one-thirty-third of a grain of arsenic. This set him thinking and pondering, and one day, riding on horseback over the hills to visit a distant patient, and revolving in his mind the circumstances attending the death of Mrs. Armstrong, the key to the whole situation flashed on him. That neuritis of hers, which they had all regarded as merely functional disorder, had not been functional but organic; it was peripheral neuritis—one of the symptoms of arsenical poisoning. He remembered all the other symptoms. Vomiting, the peculiarity known as "high steppage" gait, discolouration of the skin, &c., &c.—all symptoms of arsenical poisoning. What Martin was suffering from, Mrs. Armstrong had died of. And if in a small liquid sample taken from Mr. Martin one-thirty-third of a grain of arsenic had been found, what might be found in the body of Mrs. Armstrong? The more he thought of it the plainer it became. He wrote at once to the doctors at Barnwood Asylum, and they, too, realised that they had been deceived as to the cause of Mrs. Armstrong's physical illness. They remembered how the symptoms had diminished during her stay in the asylum and reappeared after her return home; they, too, realised that they had mistaken organic for functional disease, and (in the complete absence of suspicion) missed the diagnosis which would have put them on the right track. The facts were placed before the Home Office, and the slow but certain wheels of the criminal law began to

revolve. Stiffly and hesitatingly they moved at first, as the Director of Prosecutions began to make his own independent inquiries; but ever increased in pace and smoothness and momentum, until in the dock of His Majesty's Assizes of the county of Herefordshire they flung off Armstrong into the outer darkness of shameful extinction.

The Home Office was, naturally, slow to move at the beginning; it does not do to suspect every one against whom some private malice or feud may inspire or suggest suspicion; moreover, in a recent case of poisoning alleged against a solicitor in Wales the defendant had been acquitted; and it was probable that the authorities were determined not to set the law in motion on such a charge unless they were absolutely certain that suspicion was properly founded, and that the case would be proved; for if it is a terrible thing that a murderer should escape, it is an equally terrible thing that an innocent man should be put on trial for his life. Therefore, the first steps were taken cautiously; but to Dr. Hincks and the Martins, who were convinced of Armstrong's guilt, and certain that he was engaged in a persistent attempt to poison Martin, the machinery seemed to move slowly indeed. You must consider Martin's position. He was afraid of Armstrong. He remembered that sinister occasion when he had yielded to Armstrong's entreaties to go to tea with him, and the agonies that had followed; and here was the same man daily ringing him up and insisting that he should go to tea with him again. The two were solicitors for the vendor and purchaser of some property respectively. Armstrong had failed to complete; Martin was pressing for the return of the deposit—some five hundred pounds—but neither completion nor deposit was forthcoming from Armstrong—only invitations to tea. If it were not such a grim story there would be something comic in this almost furious bombardment of tea invitations across the village street in Hay.

"Will you come to tea this afternoon?" telephones Armstrong. "Can't come to tea," replies Martin, "but I will look in afterwards about six." "Oh, never mind," says Armstrong. "Any day will do. Come to tea to-morrow instead." Martin, quaking with apprehension, does not go to tea to-morrow. The telephone bell rings again. "Why did you not come to tea?" says Armstrong. "Tea has been waiting for you for half an hour."

Introduction.

Tea and telephones, these were the weapons with which this sinister warfare was waged. Then, as Martin would not go to tea at Mayfield on his way home through Cusop Dingle, as Mahomet would not come to the mountain, the tea mountain was brought to Mahomet. Tea was started at Armstrong's office; butter was brought from Mayfield, scones sent over from the little café across the road. The telephone now asked Mr. Martin "to come across and have tea at the office." In vain was the net spread in the sight of poor Mr. Martin; but he was hard put to it to find excuses for not crossing the road and taking his tea with Armstrong. So in sheer self-defence, though, I imagine, with poor appetite, he started having tea in his own office, in order to have an excuse for not going across the road. And so you picture, amid this furious gale of invitations, these two men sitting on either side of the street having their tea, or unable to have it: Armstrong furiously drinking his, when Martin would not come; Martin distastefully not taking his, in order to say that he had had it. Martin confided to Dr. Hincks that he could not stand it much longer. "Whatever you do," they said, "keep away from Armstrong's house. And under no circumstances eat or drink anything in his presence." The police were making secret visits, chiefly at night, to Hay and insisting on the same policy; above all, Armstrong was not to be alarmed. "All very well," says poor Martin, "but he is bombarding me with invitations to tea; every time I see him he darts across the road, 'Why not come to tea?' And I have run out of excuses." "Hold on a bit longer," they tell him. And he and Mrs. Martin actually took it in turns to keep awake at night, haunted by one knows not what grim, beckoning spectre with a teacup in its hand. And so Armstrong was at last put to the necessity of asking Mr. and Mrs. Martin to dinner. It was strange enough that any one should refuse an invitation to tea, but no one could refuse an invitation to dinner. It was expensive, of course; but it need only happen once. Martin made some kind of a temporising answer, but on the day that the invitation fell due Armstrong was already in the hands of the police, and Mr. and Mrs. Martin could breathe freely.

The ordeal of Dr. Hincks was to last a day longer. He was in a very peculiar position, owing partly to the courage and integrity of his own character. Armstrong was his patient, and he

had been attending him and giving treatment for venereal disease periodically for some time; and while he was attending him he was already in communication with the police on the subject of his arrest. In his own opinion (and I think most people would agree) he had no alternative in either case. He believed Armstrong to be a murderer, and wished him to be arrested; but every man is presumed innocent until he is proved guilty, and there was no valid reason why he should discontinue his treatment and so drive his patient to the necessity of confiding in another doctor. But, although Armstrong had been arrested on the charge of attempting to murder Martin, the real case against him was that he had murdered Mrs. Armstrong, and until her body had been exhumed Dr. Hincks must have been in considerable suspense. Had that body been found free from arsenic he would have been in the position of having made unwarranted accusations against his friend and patient; and he might have walked out of Hay, which had been the scene of his work for thirty years, and his home for fifty. But when, on the day following the arrest of Armstrong, Mrs. Armstrong's coffin was opened, the first glance told Dr. Hincks and Dr. Spilsbury that his suspicions were correct. The state of preservation of the remains told them that at once, and the fact was confirmed a little later when the analysis of Mr. Webster revealed the actual presence of a greater quantity of arsenic than he had ever found in a poisoned body.

It cannot be doubted that Dr. Hincks acted with a courage worthy of the highest tradition of his profession. He had been mistaken about Mrs. Armstrong's illness and the cause of her death, as had the other doctors who had attended her; but as soon as his suspicions were aroused he shouldered the burden of the inevitable consequences, and did his duty to society.

VII.

The reader must now be informed of another cause of suspicion against Armstrong. About a month before the episode of the tea-time attempt, and soon after Martin's arrival in Hay and marriage to Miss Davies, he had one morning received a parcel containing a box of chocolates. Neither he nor his wife was in the habit of eating chocolates, and the

box was put away until some days later, when they were having friends to dinner, and Mrs. Martin put some into a bon-bon dish. There was no clue as to where the chocolates came from, and after the party those that were left were put back into the box. Some one was taken ill after that dinner party, and later the chocolates were examined, and it was found that some of them had a small hole drilled in the base and that arsenic had been inserted. The diameter of the hole exactly fitted the nozzle of the instrument that Armstrong afterwards alleged that he used to inject arsenic into the roots of dandelions. Another case which subsequently brought Armstrong under suspicion was that of Mr. Davies, an estate agent at Hereford, who had some controversial business with Armstrong; who came to Hay, had lunch or tea with Armstrong, and was taken ill with acute abdominal pain on his return home. He was operated on for appendicitis, and died, the cause of death being (I believe) certified as peritonitis following acute appendicitis. It is possible that in certain circumstances the cause of his death might have been the subject of further investigation.

VIII.

When Armstrong appeared before the magistrate at his own bench in Hay, his place as clerk was taken by his elderly colleague, the clerk to the bench at Talgarth, to whose office he had himself aspired already. This gentleman had been one of the dinner party of four after which the inspector of taxes was taken so ill, and it is possible that the inspector had suffered in his stead. It is said that there was a somewhat rich vein of comedy in the way he handled Armstrong at these proceedings. The prisoner himself, not to be outdone, offered to assist his elderly colleague, whose infirmity hampered him in the execution of his onerous duties. Anyhow, the usual depositions were taken, and Armstrong was committed for trial at the next Herefordshire Assizes, the defence being reserved. The trial began on the 3rd of April, 1922, before Mr. Justice Darling, who was then on his last circuit prior to retirement. The Attorney-General, Sir Ernest Pollock, K.C.,* assisted by Mr. C. H. Vachell, K.C., and Mr. St. John Micklethwait, represented the Crown, and the defence was

* Now Lord Hanworth.

conducted by Sir Henry Curtis Bennett, K.C.; Mr. S. R. C. Bosanquet, and Mr. E. A. Godson. The Grand Jury, on Mr. Justice Darling's advice, had thrown out the bill as to the attempted poisoning by means of a box of chocolates, there being insufficient evidence to connect the prisoner with the sending of the box.

The proceedings began with a long and important argument as to whether the evidence as regards what we may call the Martin case was admissible. Many cases were cited, and Mr. Justice Darling finally decided that the evidence was admissible on the ground that it showed that the use of arsenic for poisoning human beings as well as dandelions had occurred to the prisoner's mind. This decision was of the greatest importance. If it had been wrong, and the Court of Appeal had held that the evidence was, in fact, inadmissible, the conviction of Armstrong would have been quashed, and he would have been released. On the other hand, without this evidence it seemed unlikely that there would be a verdict for conviction, and Mr. Justice Darling was already of opinion that the case was of a kind in which it was desirable, in order to get at the truth, to have as much evidence as possible as to the surrounding circumstances. As it turned out, his decision was right, and was upheld by the Court of Appeal. The reader must turn to the trial itself in the following pages for the details. The greater part of the evidence is of a medical nature, and is of the unsavoury kind usually associated with cases of arsenical poisoning. It is extremely important, however, and should be read with attention by any one who wishes to understand the case. The suggestion of the defence was that Mrs. Armstrong herself had deliberately taken arsenic, that she was of unsound mind and suicidal tendencies, that her husband had no motive for murdering her, and that there was no evidence that he had ever administered arsenic. There was a further medical defence presented by Dr. F. S. Toogood that Mrs. Armstrong suffered from auto-intoxication when she went into the mental hospital, and that arsenic had nothing to do with her condition, and that there was nothing in the conditions inconsistent with her having had no arsenic whatever up to 16th February, when one poisonous dose was taken which caused her death. To account for the discrepancy of these conditions with the time taken for the arsenic to reach the parts of the body as found at the post-mortem examination, he

put forward the ingenious theory that a large part of the arsenic had become encysted, or retained in a kind of capsule attached to the wall of the stomach. He cited in support of his theory the case of Duc de Pralines, who was alleged to have been poisoned by the police in the seventeenth century; but Mr. Justice Darling knew all about the Duc de Pralines, and also that the evidence of his case was known to have been falsified and misrepresented, so he was able to dispose of this ingenious theory in his summing up. The only comment to be made on Dr. Toogood's evidence was that it was not good enough.

IX.

Perhaps the most dramatic thing in the course of a trial that took place throughout in an atmosphere of tense emotion was the disclosure by Sir Henry Curtis Bennett that after Armstrong's arrest a packet of arsenic had been found in a drawer in his bureau which the police had already searched without result. It seems that after Armstrong's arrest he told his solicitor about this packet, which represented the residue of the white arsenic that he had bought at Davies's shop. His solicitor went on his instructions to Mayfield, looked in the bureau and, like the police, failed to find the packet. Then he went again with his clerk, and he described in his evidence how they found the packet of arsenic "caught up" at the back of a drawer. They applied for a list of the articles found by the police, in order to ascertain whether this packet had been seen by them or not; it had not, and so they did not disclose its presence until Sir Henry Curtis Bennett produced it so dramatically at the trial itself. At first sight there seems something peculiar about the discovery of this packet, and the reader will naturally ask, was it put there by the defence, and, if so, for what purpose? Or was it put there by the agents of the police, and left as a trap, and, if so, for what purpose? It seems a little mysterious; and the importance of it does not seem sufficiently to account for the sensation caused by it. But I believe the facts of the matter to be simply those revealed in the evidence; Armstrong did remember it, and told his solicitor about it, and it was first overlooked and ultimately found, and the finding not communicated to the police. It is interesting to see the different use made of such a piece of evidence and the comments of Lord Darling, Sir Ernest Pollock, and Sir

Henry Curtis Bennett respectively. Lord Darling treated it as a very damaging piece of evidence, and commented on Armstrong's alleged failure to remember it; Sir Henry Curtis Bennett went so far as to say that it might save Armstrong's life, as accounting for the remainder of the purchase of arsenic, half of which he alleged he used in making up the little packets for poisoning dandelions. Its chief interest now lies in the example it gives of the ingenuity of a clever counsel in interpreting every fact as favourably as possible to his client. The passage in Sir Henry Curtis Bennett's speech dealing with this matter is well worth reading closely.

Armstrong gave evidence on his own behalf with the same calmness that he maintained throughout the trial, and was quite unshaken until, after a severe cross-examination by the Attorney-General and a re-examination by his own counsel, he was taken in hand by the judge, who, in a few masterly and persistent questions, revealed Armstrong's inability either to explain the little packet of arsenic found on him at his arrest, or his concealing the fact that there was another packet hidden in the desk in his bureau which the police did not find when they searched. The judge's questions also made it difficult for any one to believe that Armstrong really did, for the purpose of poisoning twenty individual dandelions, make up twenty individual packets of white arsenic. These questions shook the prisoner, and, I imagine, really shattered the case for the defence. Any one who reads them, and Armstrong's method of dealing with them, can have little doubt that they went to the root of the matter of his guilt far more certainly than the arsenic ever went to the roots of his dandelions. Sir Henry Curtis Bennett made a very effective and eloquent speech for the defence, and the Attorney-General's reply was a masterly example of its kind. Armstrong sat apparently unmoved through everything, with blue eyes staring in front of him throughout the summing up, to which I have alluded in the preface.

Severe as this summing up was, the general opinion was that Armstrong would be acquitted, and the betting was in favour of acquittal. Sir Henry Curtis Bennett himself was so confident that he went for a walk, expecting to come back either to hear the verdict for acquittal or to meet Armstrong himself and find that he had already been released. As it was, when he got back to Hereford, the newsboys were crying in the streets the paper

announcing the verdict "guilty." A regrettable indiscretion on the part of a juryman and a London evening newspaper revealed to the public the fact that when the jury retired to consider their verdict the foreman asked every one to write his verdict on a slip of paper, and that eleven bore the word "guilty" and one "not proven"; and when the foreman announced the result the man who had written "not proven" said, "Well, Tom, you know what 'not proven' means. I really believe the man is guilty." After which the foreman, finding they were all agreed, was alleged to have said, "We have heard enough of the case, and we needn't discuss it any more. Let's have a quiet smoke before we go back into Court." This unexpected glimpse into the methods of a jury consisting of ten farmers and two professional men is undoubtedly interesting, and seems to indicate a degree of common sense which should go far to refute the theories of those who think that an ordinary jury is not a satisfactory tribunal for the testing of circumstantial evidence. But the publication of this story was severely censured at the time by several eminent judges.

In due time the case came before the Court of Criminal Appeal, presided over by the Lord Chief Justice, who sat with Mr. Justice Avory and Mr. Justice Shearman. The appeal was dismissed, and a fortnight later, on the 31st of May, 1922, Armstrong was duly hanged at Gloucester, having made no confession. His attitude to the religious ministrations of his clerical friends was described as being one of "respectful attention." He was visited by Mr. Matthews, his solicitor, and Mr. Chevalier, a Liverpool solicitor who had been trusted and esteemed by Mrs. Armstrong, and (no doubt for her sake and the children's) did what he could to arrange Armstrong's somewhat tangled affairs. Death was dealt to him on that May morning, while the birds in Cusop Dingle were singing about the house where his children were awaking, with the swift and merciful efficiency of modern methods; and for the sins that he committed he paid up to the full measure of his capacity to pay.

X.

Armstrong's presence was characterised by neatness and smartness of appearance and alacrity of demeanour. He was very small, but so well proportioned that he did not seem small, unless he was standing beside a person of normal height. He was voluble

and egotistical, regarding himself and his affairs as of great importance; his manners were excellent. Some people found him simply a bore; others, among whom were a certain number of women, found him attractive. The most remarkable thing about him was his eyes. They were light blue, the colour of forget-me-nots, and they had a glittering brilliancy, almost as though there was a light behind them. This, it will be remembered, was also a characteristic of Smith, the man who had a habit of marrying women with a little money and drowning them in a bath; and, I doubt not, of many other scoundrels.

XI.

In cases where so much of the evidence is circumstantial it is generally considered necessary to have ample proof not only of the cause of death, or of the actual giving of poison, but also that the defendant had it in his possession, knew how to use it, and had both motive and opportunity for using it. Armstrong was an old hand with arsenic. He was interested in his garden, waged a continuous warfare against dandelions and plantains, and always had stocks of weed-killer, which is a preparation of arsenic, in hand. In addition to this he bought arsenic himself and made up his own weed-killer; still further, and this was a significant fact, he bought a quantity of white arsenic in the January preceding Mrs. Armstrong's removal to the asylum, and bought it from the local chemist, Davies—Mr. Martin's father-in-law. It was this white arsenic which he is alleged to have used to poison Mrs. Armstrong and Mr. Martin. As to opportunity, there was no doubt, and it was not contended, that he often sat with his wife when she was ill and, in the absence of the nurse, gave her whatever nourishment she was having. As to motive, however, there was a difference of opinion. Sir Henry Curtis Bennett was very impressive on this subject of absence of motive; and, indeed, to any ordinary mind there would seem to be no motive great enough to account for so monstrous a crime. But motives which would not be sufficient for ordinary people were, apparently, sufficient for Armstrong. With regard to his wife there was a financial motive — miserable enough, it is true — for the lady possessed only about two thousand pounds in the world; but the incident of the will indicated that Armstrong attached importance to it. While he was away at the war she made a brief will leaving

everything she had to her children, with a small legacy to Miss Pearce, and nothing to her husband. But soon after he came back she signed, or was alleged to have signed, a new will in which nothing was left to her children or Miss Pearce, and everything to her husband. This will was in the prisoner's own handwriting, and, if the signature was not a forgery, it was almost certainly obtained under a mistaken notion as to what the document was, for the will was improperly witnessed, the witnesses signing neither in the presence of the testator nor of each other. Armstrong's story of this will will be found in his evidence; its existence, I am afraid we must admit, shows that he had a financial interest in the death of his wife. To that must be added the fact that he was in financial difficulties at the time, and that he died insolvent.

We have seen what kind of a woman Mrs. Armstrong was, and that Armstrong's life with her was not what you might call a joyful one. There is further to be considered the fact that he had contracted an intimacy—of what degree is really of no great importance—with a lady unnamed, who gave evidence at the trial; she came and spent a night at Hay soon after his wife's death —presumably to see his house and the children; and within a month or two of the death he had asked her to marry him, although at the time of the arrest she had, apparently, not decided to do so. These, then, were the motives which induced him to embark on the campaign of cumulative poisoning in minute doses which had been going on for some time before Mrs. Armstrong's removal to the asylum. There is a difficulty as to the administration of the large dose which was evidently given within a few hours of her being removed to Barnwood. One may well ask what can have been his object in administering a large and fatal dose to a woman who had just been examined by two doctors and certified as mentally insane, but physically in ordinary health. Supposing, as might well have happened, that Mrs. Armstrong, who was taken violently ill just before starting for the asylum, and had presumably got rid of the greater portion of the dose, had died in the motor car on the way to Gloucester, there would have had to be an inquest; neither Dr. Hincks nor the other doctor who certified her would have given a death certificate in such circumstances; and a post-mortem examination would have revealed the presence of arsenic. One may well wonder why Armstrong took such risks.

I can only assume that, in the case of the dose being successful, his defence would have been that the poor lady, on hearing that she was going to be taken to the asylum, decided to commit suicide. A possible motive (not put forward by the prosecution) for Armstrong's desire that his wife should be discharged from the asylum, and not merely sent home on leave, was that in the latter case she would still have been under a certificate of lunacy, and therefore not qualified to make the new will which he drafted and which she signed.

The delusions from which she suffered were of a sad and pathetic nature. She, whose life was governed by a sense of duty, went about weighed down by the fantastic belief that she did not do her duty by her husband and children, and that she had committed some criminal act for which she could be arrested. She was also under what was certified as the "untrue delusion" that she was being poisoned; but in the light of later knowledge this appears to have been no delusion, but simple fact.

A terrible possibility here presents itself. It was suggested to me, by one who saw her constantly during this period, that she knew she was being poisoned, and that in her strange mental condition she felt that she must not, for the sake of her children, reveal what she knew and incriminate her husband. If there is any possibility of truth in that view (and only those who knew her and were with her can judge), it raises her martyrdom to a point of heroic tragedy such as has surely never been recorded before. I can only say for myself, having pondered the matter considerably, that I have no kind of certainty about it either way, and that I only hope it is not true. Another of her "delusions" was that Dr. Hincks did not know what was the matter with her; and this, as he would be the first to admit, is not entirely baseless. That at this time she took a dislike to and mistrust in doctors generally on the grounds that they "did not know what was the matter with her" might add some plausibility to the ghastly possibility that I have suggested. I am bound to suggest it, because the person who holds that view has a more intimate knowledge of the circumstances than any one else living.

As to the second large dose of arsenic, from which Mrs. Armstrong died, and which, according to the defence, was administered by herself, there is no evidence that in her enfeebled condition she could have moved from her bed to get such a dose, even if she

knew where to get it, for a period much in excess of the twenty-four hours preceding her death. Although Sir Henry Curtis Bennett did his best to produce medical evidence that the fatal dose must have been taken earlier than twenty-four hours before death, it did not convince the jury; and, in the light of the evidence of Sir Henry Willcox and Dr. Spilsbury, it will hardly convince the reader. Presumably, like all arsenic poisoners, Armstrong got tired of the small doses and decided to hasten matters, and to put an end to the situation once and for all.

Mr. Justice Darling dealt so thoroughly with the prisoner's story of having actually wrapped twenty little packets for the purpose of poisoning twenty dandelions that I need not refer to it further here. It seems unlikely, and the jury disbelieved it. These were the kind of little packets that were handy for using at the tea table; and, as we know, one of them was actually found in his pocket at the time of his arrest, ready, no doubt, for Mr. Martin should his reluctance to come to tea be overcome. There is only this to be said, that people who knew Armstrong well tell me that it was just the kind of thing he would have done. He was a fiddling and pernickety little man, who liked messing about with chemicals and apparatus; and I have had shown to me the little instrument which he said he used for injecting arsenic powder into dandelion roots—a kind of small syringe with a fine nozzle. Indeed, he gave it to Dr. Hincks with some other hospital apparatus, after Mrs. Armstrong's death, as something he had no more use for. But it is significant that the little nozzle exactly fitted the little hole that was drilled in the chocolates sent to Mrs. Martin.

XII.

I have sat through a summer morning on a chair on the tennis lawn of the house which used to be called Mayfield. The dandelions were thicker than ever, and the plantains had, at the time of my visit, taken almost complete possession of half of the lawn. The sun shone, the doors and windows were wide open, so that the summer breeze stirred through the house, and the voices of children at play sounded in the precincts. A saner and more normal life, and a happier set of children, had taken possession of the place. But my thoughts were with those other little

children whose voices, more repressed and not quite so happy, had sounded there at the time of this story. It is the presence of those children that to me at any rate invests this crime with a peculiar dreadfulness. And in considering the endless puzzle of what it is in one man that, side by side with ordinary human qualities, makes him capable of fiendish cruelty and puts him into the class which we call criminal, I am impelled to the conclusion that what makes a poisoner differ from the normal man is not so much a positive as a negative quality. It is the absence of something from his moral make-up, rather than the presence of something, that seems to me to make the difference. And in this case I would say that what Armstrong and people like him lack is imagination. They see things and actions objectively, not subjectively. Otherwise, how would it be possible for a man engaged with life in all its ordinary relationships not to recoil from contemplation of the effect of his conduct on those little lives? There is something innocent in the worst of us; and no one can live in the company of little children without being aware, were it only wistfully, of the morning freshness and beauty of their outlook. It is easier to understand a man murdering his children in insane desperation than coldbloodedly scheming and contriving actions which could only blot out the sunshine of their lives in darkness and shame. I am driven to believe, therefore, that this man was deprived of the power of realising or imagining what might happen, or what must happen, to his children as a consequence of his actions.

For some months after that execution at Gloucester gaol they continued to live at Mayfield, haunting with their innocent presence the scene of so much wickedness and so much suffering. It is a dreadful thought that they should have continued there, while two of them at least were old enough to know what was happening. There are many stories about them; but this is not a part of the case that I can bear to dwell on, nor do I feel called upon to do so. Enough that somewhere in the world, under another name, bearing the burden and handicap involved in this sad story, these young people are living out their lives.

Leading Dates in Armstrong Trial.

June, 1907.	Armstrong married Katherine Mary Friend, of which marriage there were three children.
17th June, 1917.	Mrs. Armstrong made a will in which she made provision for the children of the marriage along with other bequests.
7th June, 1919.	Armstrong bought a half-pound of arsenic.
May, 1920.	Armstrong visited a lady referred to as Mrs. —— in the evidence at a hotel in London.
4th May, 1920.	Armstrong bought 5 gallons of weed-killer.
July, 1920.	Armstrong returned from Army service.
8th July, 1920.	Mrs. Armstrong made a new will bequeathing all her real and personal estate to her husband. This will was in the handwriting of Armstrong, whereas the previous one was in Mrs. Armstrong's own handwriting. No provision was made for the children in this will.
1st August, 1920.	Dr. Hincks saw Mrs. Armstrong, when there appeared to be nothing the matter with her.
4th August, 1920.	Armstrong bought three tins of powdered weed-killer.
15th August, 1920.	Dr. Hincks gave Mrs. Armstrong sleeping draught.
22nd August, 1920.	Mrs. Armstrong certified as insane and sent to Barnwood Private Asylum.
11th January, 1921.	Armstrong bought a quarter-pound of arsenic (a very early date in the year for taking steps to make weed-killer).
22nd January, 1921.	Mrs. Armstrong came home.
27th January, 1921.	Mental nurse installed.
13th February, 1921.	Mrs. Armstrong started vomiting badly.
16th February, 1921.	Dr. Hincks commenced daily visits. Armstrong asked Dr. Hincks whether his wife might take homœopathic medicines.
18th February, 1921.	Mrs. Armstrong lost complete use of her limbs.
22nd February, 1921.	Mrs. Armstrong died.
20th October, 1921.	Armstrong had meeting with Mr. Martin. Mr. Martin wrote giving notice of the rescission of contract and demanding repayment of deposits with costs and expenses.

Leading Dates.

22nd October, 1921.	Armstrong invited Mr. Martin to tea, and continued doing so until he ultimately went on the 26th October.
26th October, 1921.	Mr. Martin had tea with Mr. Armstrong, after which he was ill for several days. Dr. Hincks had an analysis made and definite traces of arsenic found.
November, 1921.	Armstrong asked Dr. Hincks what would be a fatal dose of arsenic, and, when told 2 grains, he said he thought 1 grain was enough.
28th December, 1921.	After repeated invitations to Mr. Martin to have tea with him Armstrong invited Mr. and Mrs. Martin to dinner, but they refused.
31st December, 1921.	Inspector Crutchett visited Armstrong and took a statement from him. Armstrong arrested.
2nd January, 1922.	Exhumation and post-mortem examination of Mrs. Armstrong's body.
19th January, 1922.	Armstrong charged with murder.
3rd April, 1922.	Trial commenced.
13th April, 1922.	Armstrong convicted.
11th May, 1922.	Hearing of appeal commenced.
16th May, 1922.	Appeal dismissed.
31st May, 1922.	Armstrong executed.

THE TRIAL

WITHIN THE

SHIRE HALL, HEREFORD,

HEREFORDSHIRE SUMMER ASSIZES,

MONDAY, 3RD APRIL, 1922.

Judge—

MR. JUSTICE DARLING.

Counsel for the Crown—

The ATTORNEY-GENERAL (Sir ERNEST POLLOCK, K.C.)

Mr. C. F. VACHELL, K.C.

Mr. ST. JOHN MICKLETHWAIT.

(Instructed by the Director of Public Prosecutions.)

Counsel for the Prisoner—

Sir HENRY CURTIS BENNETT, K.C.

Mr. S. R. C. BOSANQUET, K.C.

Mr. E. A. GODSON.

(Instructed by Mr. Thomas Alfred Matthews, Solicitor, Hereford.)

Herbert Rowse Armstrong

First Day—Monday, 3rd April, 1922.

The Clerk of Assize—Herbert Rowse Armstrong, you are charged in this indictment with the wilful murder of your wife, Katherine Mary Armstrong, at Cusop, on 22nd February, 1921. How say you: are you guilty or not guilty?

The Prisoner—Not guilty.

(The jury were duly sworn.)

The Clerk of Assize—Gentlemen of the jury, the prisoner at the bar, Herbert Rowse Armstrong, is charged in this indictment with the wilful murder of Katherine Mary Armstrong, at Cusop, on 22nd February, 1921. Upon this indictment he has been arraigned, and upon arraignment he has pleaded not guilty, and has put himself upon God and his country, which country you are. Your duty, therefore, is to inquire whether he be guilty or not guilty, and to hearken to the evidence.

Opening Statement for the Crown.

The Attorney-General, opening the case for the prosecution on the charge of murder, described first the symptoms of the last illness of Mrs. Armstrong, and said these were trustworthy symptoms of arsenical poisoning. At the time of her death Dr. Hincks thought the symptoms were due to natural causes, but later on, in September or October, the attention of the Director of Public Prosecutions was drawn to the case, and Home Office experts were consulted. It was decided to make a post-mortem examination, and on 2nd January the remains of Mrs. Armstrong were exhumed. The examination was made by Dr. Spilsbury, and he found on analysis that in the curiously well-preserved remains, and in the organs which alone he dealt with, there were nearly 3½ grains of arsenic. More than a fatal dose was therefore discovered still resting in parts of the body ten months after death. From those facts the jury would, on the evidence to be submitted, draw the inference that there must have been administered a large dose of arsenic within twenty-four hours of death. The state of the remains also suggested to Sir William Willcox, medical officer to the Home Office, that death was undoubtedly due to arsenic, and that Mrs. Armstrong had been submitted for the last weeks of her life to a course of poisoning, with a final dose within twenty-four hours of her death, when she was lying in bed unable to move her limbs or her hands to feed herself. "Who poisoned her?" asked the Attorney-General. "Who

administered that fatal dose and that constant poisoning which led to her death? I am going to submit to you that the evidence points conclusively to the fact that she was poisoned by her husband."

The Attorney-General then proceeded to describe Armstrong's career, noting his admission as a solicitor in 1895. The prisoner, he said, was a Master of Arts of Cambridge University, and he was justices' clerk at Hay. He was partner in a legal firm, of which, on the death of his partner, he became sole proprietor, and he had his office at Hay and lived at Mayfield, Cusop, some distance away. In June, 1907, he married Katherine Mary Friend, of Teignmouth, and by her had three children. He served in the Volunteers, and on the outbreak of the war he became a captain in the Royal Engineers (Territorials) and served in France, his record in this respect being one shared by many men in the same class. During his absence Mayfield was let, and Mrs. Armstrong went down to Teignmouth to live with her sister. Proceeding, the Attorney-General said he was going to relate some facts which, he submitted, were convincing. Mrs. Armstrong loved her children. She was possessed of some small property. She was an intellectual woman, with apparently some knowledge of business, and on 17th June, 1917, she made a will with remarkable caution and precision—a will bearing traces of some reflection for the purpose of taking care of her children. In this will she left remembrances of £50 each to her sister, Ida Bessie Friend, and to a Mr. Chevalier, and an annuity of £12 to Emily Alice Pearce, her housekeeper, a devoted old servant. She left her husband £50 a year till 1933, and £100 a year after that date, which was the date when his elder daughter would be twenty-five. The will left the residue of the property to the children, the capital to go to them on reaching certain ages. A draft or abstract of this will on blue paper was kept at Mayfield, and was found in Mrs. Armstrong's bedroom after her death, and was given by Miss Pearce to Armstrong himself. During his war service Armstrong visited Bournemouth, and there became acquainted with a lady whom, in May, 1920, he visited in some hotel in London. Counsel, in mentioning this fact and withholding the name of the lady, said there was not the slightest reproach attaching to her in the circumstances alluded to. In July, 1920, Armstrong returned home, and within a day or two of getting back what purported to be a new will was made by Mrs Armstrong. This will was dated 8th July, 1920, and stated that Mrs. Armstrong revoked all former wills and testamentary dispositions and bequeathed all her real and personal estate to her husband absolutely, and appointed him her sole executor. It purported to be witnessed by Emily Pearce and Lily Candy, and it made her husband finally and completely master of her estate, to the exclusion of her children. The first will was drawn with great care and forethought for the children, and

was in the handwriting of Mrs. Armstrong herself; but the will of July, 1920, was wholly in the handwriting of the prisoner. Armstrong was a solicitor. It was common knowledge that a will, to be valid, must be signed by the testator and witnessed by two witnesses signing in the presence of the testator and of each other. Without such attestation the will was invalid. I am going to prove (said Sir Ernest Pollock) by clear and unmistakable evidence from Lily Candy, now a married woman named Mrs. Evans, that at the time she signed the will as purporting to be a witness of it Mrs. Armstrong was not present. She signed the document at the request of the prisoner, and she signed it in a manner in which the prisoner, as a solicitor, must have known made that will invalid. I ask you to take due note of the fact that that will made no provision for safeguarding the children's interests—a most curious alteration, having regard to the manner and circumstances of the first will.

Continuing, Sir Ernest related how Mrs. Armstrong was seen by Dr. Hincks on 1st August, when there was nothing the matter with her; how on 15th August he gave her a sleeping draught; and how on 22nd August she was certified insane and taken to a private asylum near Gloucester. During her illness, which was physical as well as mental, she displayed symptoms now recognised as those of arsenical poisoning. Sir E. Pollock said that Armstrong made extensive purchases of arsenic, and gave a list going back to 1914, when both liquid weed-killer and solid arsenic and caustic soda were bought by the prisoner. On 7th June, 1919, he bought half a pound of arsenic; on 4th May, 1920, four gallons of weed-killer; and on 4th August, 1920, three tins of powdered weed-killer, all from the Hay chemist, Davies. Among Mrs. Armstrong's symptoms in August and later were loss of power in the hands and feet, which was a symptom of arsenical poisoning. Counsel admitted that for the purpose of treating her mental illness Mrs. Armstrong was given for one month—from 5th October to 4th November—a tonic containing a small quantity of arsenic, but said the amount was considered by experts as wholly insufficient to account for her symptoms. In fact, they would say it played absolutely no part in causing her death or the features attending it.

The Attorney-General next referred to letters which passed between the private asylum authorities and Dr. Hincks, on behalf of Armstrong, in which Armstrong requested early in January that his wife should be sent home. Dr. Townsend, the asylum superintendent, was not too willing. He did not consider that Mrs. Armstrong was better mentally, though her physical condition had improved, and he suggested that she should have three months' leave at home, and should remain under the observation and control of the institution. Armstrong strongly opposed this, and asked for her unconditional return home, and he got his way. In

refusing, said the Attorney-General, to allow her to come home on probation; in refusing the assistance and control of Dr. Townsend, might it not be that Armstrong declined to have another authority about the house who would have to inquire as to the patient's death; who had still got Mrs. Armstrong on his books; whose responsibility for Mrs. Armstrong was still retained; who was bound, if and when she died not under his immediate care, to satisfy himself that she had died in circumstances which offered no question and which could be cleared up satisfactorily. He would ask the jury to consider whether there was any legitimate reason for refusing so sensible, so wise, so kindly, and so patient a course as that suggested by Dr. Townsend.

[In adjourning the Court for luncheon, Mr. Justice Darling released the jury for an indefinite period pending a legal point which, it was intimated, Sir Henry Curtis Bennett would raise as to the admissibility of certain evidence for the prosecution.]

Legal Argument on Evidence.

After the adjournment the Attorney-General at once raised the question of Sir Henry Curtis Bennett's objection. He told the story of the prisoner's alleged attempt on the life of Mr. Martin by tendering him a poisoned teacake at tea at Mayfield on 26th October, and said these facts were required to rebut the suggestion which was being made that Mrs. Armstrong's death could have been caused by arsenic taken by misadventure. Further, he added, the facts were required to show that the prisoner had definitely attempted to poison Mr. Martin, and a true bill had been found on that matter against Armstrong. Counsel said he had a succession of cases from 1849 onwards, in which evidence had been held admissible in poisoning charges that other persons besides those who had died, but who were also in close association with the accused, had suffered from similar poisoning symptoms. Among the cases quoted were *R.* v. *Geering*, (1849) 18 L.J., M.C. 215; *R.* v. *Garner*, (1864) F. & F. 346; *R.* v. *Flannagan*, 15 Cox, 403; and *Makin* v. *Attorney-General for N.S.W.*, (1894) A.C., 57. The Attorney-General said that the evidence which he would call, showing that Armstrong tendered the poison to Martin with his own hand, tended to rebut the suggestion of the defence that Mrs. Armstrong was poisoned by accident.

Sir Henry Curtis Bennett submitted that on this occasion the evidence was not admissible. The cases to which the Attorney-General had referred were cases where the defence was either that the person did not die of the particular poison, or that the death was the result of accident. The word "accident" in these cases had a double meaning. It might mean that the person who died

had himself accidentally taken the poison, or that the person who was charged with the murder had by accident administered poison. In this present case there was no suggestion made that Mrs. Armstrong did not die from the result of arsenical poisoning. It was part of the case that Mrs. Armstrong did in fact die as a result of arsenic. The question which the jury would have to determine was not whether the poison was administered by the prisoner accidentally. That was not part of the defence; nor was it part of the defence to say that the prisoner administered the poison in any way. The case for the defence was that he had nothing whatever to do with the taking of arsenic by Mrs. Armstrong. Such evidence as the Crown desired to give relating to the poisoning of Mr. Martin was, he submitted, legally inadmissible, because it would prejudice or endanger the prisoner on another charge. In *R.* v. *Winslow*, 8 Cox, 397, Baron Martin held that such evidence was not admissible. Because Mr. Martin suffered from symptoms of arsenical poisoning on 26th October, could that possibly be said to throw light on whether Mrs. Armstrong was poisoned by her husband in January, 1921?

Mr. Justice Darling—Is it the defence that she committed suicide?

Sir H. Curtis Bennett—It is not upon me to say at this moment more than that the defence is that he had nothing whatever to do with the administering of arsenic or any other poison to Mrs. Armstrong.

Mr. Justice Darling—If the suggestion is to be or may be that she took it herself in order to commit suicide, would it not be relevant to show that another person who displayed all the symptoms of arsenical poisoning, although he did not die of it, displayed them because he had taken a meal administered to him by the defendant, and that the defendant was in a position to have given the same poison to his wife?

Sir H. Curtis Bennett—When the defence is "I didn't do the thing. I didn't administer the poison. I agree that my wife died from arsenical poisoning, but I never had anything whatever to do with the administration of it," surely it is going a very long way to say that he murdered his wife because nine months or nine years later some other person showed symptoms of poisoning after having had a meal with Armstrong.

At a later stage Sir H. Curtis Bennett intimated that it was no part of the defence to suggest that Mrs. Armstrong took arsenic in mistake for something else.

Mr. Justice Darling said that, in his opinion, the authorities cited showed that the evidence which the Attorney-General proposed to call was admissible. He did not think it necessary to give any detailed grounds for his decision. If he was wrong there was the Court of Appeal, which could set him right.

Herbert Rowse Armstrong.

Opening Statement for the Prosecution Resumed.

The jury were then recalled, and the ATTORNEY-GENERAL continued his opening statement. Dealing first with events in January and February, 1921, he said that on 11th January Armstrong bought a quarter of a pound of arsenic—a very early date in the year for taking steps to make weed-killer. On 22nd January Mrs. Armstrong came home, and Nurse Kinsey, a district nurse, was called in. She advised that a mental nurse should be engaged. Nurse Allen was summoned from Cardiff, and was installed on 27th January. Mrs. Armstrong's general health was at first good. Then, however, feelings of nausea set in, and on 6th February she complained to Dr. Hincks. He found the "high-steppage" gait which was one of the symptoms of arsenical poisoning. On Sunday, 13th February, she started vomiting badly, and had to take to her bed. From Wednesday, 16th February, Dr. Hincks came daily until her death. After the 16th she was unable to take any solid food; and from the 18th she lost completely the use of her limbs, and was unable to get out of bed. On 16th or 17th February Armstrong asked Dr. Hincks if his wife might take some homœopathic remedies which she fancied and had long been in the habit of taking. For the most part such medicines were entirely innocuous, although they might not do much good. The doctor was cautious, and asked for two bottles to examine. He found they were quite harmless, and then said there would be no harm in Mrs. Armstrong taking them. After her death over fifty empty bottles were found, and two of them contained some form of preparation of arsenic, but the amount was so trifling that it would require in one case fifteen and in another thirty bottles to make anything like a serious dose. Mrs. Armstrong died about ten o'clock on the morning of 22nd February. Armstrong was telephoned to at his office, and he returned home at lunch time. Counsel asked who could possibly have administered the poison which produced symptoms of arsenical poisoning in Mrs. Armstrong from 15th to 22nd August, before she went to the private asylum. Miss Pearce was away on holiday. One person, and one person alone, was at Mayfield both in August and again in February, and that person was the prisoner. It was he who made the purchases of arsenic in August, 1920, and again in January, 1921. After his wife's death Armstrong paid a visit to Italy, and while away kept a diary, in which one of the entries made by him obviously indicated that Armstrong was going to ask the lady he (counsel) had referred to earlier in the day to become his wife, though he did not do so actually until Whitsuntide, which was in the middle of May.

The Attorney-General then proceeded to deal with Armstrong's relations with Mr. Martin, his fellow-solicitor in Hay. He spoke of the aloofness which had marked their personal relations until

it became Martin's duty to press Armstrong for the completion of a sale for which he held large sums of deposit money as solicitor for the vendor. Then Armstrong became apparently anxious to get on friendly terms with Martin. As solicitor for the purchaser, Martin was pressing for completion or for the return of the deposit money. There was an interview on 20th October which ended somewhat unsatisfactorily, and Mr. Martin wrote Armstrong giving notice of the recision of the contract and demanding the repayment of the deposits, with costs and expenses. The next afternoon Armstrong invited Martin to come to tea, and he continued doing so from day to day until Martin actually went to Armstrong's house on 26th October. Martin had asked Armstrong to ride up in his motor car, but Armstrong declined, and was at home when Martin arrived just after five o'clock. At the tea table a curious thing happened. Martin was sitting with his back to the window, and it was growing dusk. Armstrong suddenly took up a buttered scone and said, "Excuse my fingers," and put it down on Martin's plate. Martin unsuspectingly ate it. On returning home he began to be ill, and was ill for several days with symptoms which, by 30th October, made Dr. Hincks so uneasy that he had analysis made and a definite trace of arsenic was found. When Martin got better he met Armstrong, who said to him, "It may seem a curious thing to say, but you will have another attack of the same kind," and he asked him again to tea, and renewed the invitation not once, but a dozen or a score of times. These invitations were not accepted. The matter of the sale was not cleared up, and the money was not returned; but the invitations continued to be given by Armstrong, and on 28th December he asked both Mr. and Mrs. Martin to dinner. That invitation was also not accepted. Inquiries had been going on ever since Martin's illness, and on 31st December Chief Inspector Crutchett visited Armstrong in his office at Hay and took from him a statement, in which he gave his own version of what happened at the tea and as to the delayed completion of the sales; also of his inquiries about Martin's illness and his offer to do Martin's work during his absence. The statement also detailed Armstrong's dabbling in the preparation of weed-killer from arsenic, which he admitted he purchased. He specifically denied having poisoned Martin on 26th October. On his arrest, which immediately followed, documents were found on him, and among them was a packet containing a white powder, which turned out to be arsenic. This packet Armstrong had attempted to abstract from among the letters he was giving up. Counsel also mentioned that Armstrong had asked Dr. Hincks in November, 1921, what would be a fatal dose of arsenic, and on being told 2 grains, said, "Oh, I thought 1 would be enough." These facts excluded the possibility of accident. It was said that such evidence was only circumstantial, but direct evidence in a poisoning trial was prac-

tically impossible. In a crime so sinister and subtle the value of circumstantial evidence was that it did not depend on the veracity of witnesses, but each separate part of it fitted together like the parts of a puzzle and pointed to one conclusion, namely, that it was the prisoner who killed his wife, who had the means, the opportunity in August, and again in February, and who had the motive to administer poison to Mrs. Armstrong. You will find the means with the prisoner (Sir Ernest concluded). You will find the opportunity with the one person who was at Mayfield both in August and February. You will find the motive in the will which I have described to you. These questions that arise will be answered by the evidence, and I shall invite you to come to the conclusion upon the evidence that the prisoner is guilty of the charge, and, if he is guilty, your sympathy for the living must not cause you to forget justice for the dead, or that the interests of society require you to do your duty fearlessly and faithfully, as I know you will.

The Court adjourned.

Second Day—Tuesday, 4th April, 1922.

Evidence for the Prosecution.

Ida Bessie Friend, examined by Mr. Micklethwait—I am a sister of the late Mrs. Armstrong. I am single, and I reside at Rosary View, Torquay. My sister was a woman of good business capacity. I saw her in 1919 at Bath; she was in fairly good health then, but she was suffering from neuritis, which affected her in her hands; she complained of pins and needles. I did not see my sister again until August, 1920. On Saturday, 21st August, 1920, I received a telegram from Major Armstrong, and in consequence I went to Mayfield, arriving about five o'clock. My sister seemed bright and pleased to see me, and then she got into a very nervous and highly strung condition, and seemed to get worse while I was there. The next day she had breakfast in bed, and I was with her nearly all the morning after. She was sick during the morning. Dr. Hincks came on the Saturday evening, and again on the Sunday morning, the 22nd, with Dr. Jayne. They had a consultation together about my sister. As the result of that consultation it was decided that she should be sent to Barnwood. My sister was sick again that morning, and vomited during the morning. She was also sick on the way to Barnwood. I drove with her to Barnwood, and came back to Mayfield and stayed a day or two. That was the last time I saw my sister alive. She made a will shortly before her death and handed it to me. Exhibit 16 is the document I refer to. It is in her handwriting, except the signatures, and it is dated 17th January, 1917. My sister wrote out that will two or three times in draft. She also had a small sheet of paper on which she made an epitome of the will, which she kept. I saw that epitome when I was at Mayfield the day after my sister was buried.

By Mr. Justice Darling—The epitome is in my sister's own handwriting. I think the document was headed "Copy of my Will" or "My Will." There was something on the outside. It was blue paper. I saw it in what my sister always called her private drawer in her bedroom. It was the only piece of paper there. I was told she had destroyed everything else.

Examination continued—I looked at the will and read it. I think I showed it to Mr. Chevalier, who was one of the executors. Miss Pearce was there at the time I showed it to Mr. Chevalier. My sister handed the original will to me to keep, and it remained in my possession until the arrest of Major Armstrong.

By Mr. Justice Darling—The will which was handed to me is the one produced here to-day.

Ida Bessie Friend

Examination continued—I think it was the day my sister signed it she handed it to me. She gave it to me to keep for her. She never wrote asking for it back.

Cross-examined by Sir H. Curtis Bennett—My sister was not a strong woman; for many years she had been a martyr to indigestion, and was highly strung. She worried a great deal about small matters, and blamed herself if anything went wrong. She was a great believer in homœopathic medicines. I know that for many years she was in the habit of taking pills for indigestion at night after dinner. They were partly for indigestion and partly for her general health.

By Mr. Justice Darling—What were they?—Dr. Andrew Clark's dinner pills, I believe they were. She always procured them from the doctor.

Did you take them too?—Yes, and all the family.

Cross-examination continued—They were made up by Bear & Co., of Bristol. So far as I know, Major and Mrs. Armstrong were on very affectionate terms throughout the whole of their married life. During the war Major Armstrong was serving in the Army, and my sister part of the time was living at Teignmouth. She came in 1915 and stayed until 1918. I saw her frequently while she was at Teignmouth. She was very worried when at Teignmouth. The first will which has been produced—exhibit 16—was made in January, 1917. That was while Major Armstrong was away serving. It was given into my charge. It was open, and the contents of it were always open for me to look at. That will remained in my possession until I handed it to the prosecution. The epitome I referred to did not go into the details of the will, but it gave the sums left to different people. It was not a draft or copy of the will. When I was called to Mayfield, on the 21st August, 1920, Major Armstrong met me at Hereford, and we went out by train to Hay. When I got out at Hay I found that Mr. Chevalier was there already. Mr. Chevalier was not only an executor of that first will, but he was a very old friend of Major and Mrs. Armstrong and the children. My sister at first seemed pleased to see me. I had tea and supper with her, and at both meals her appetite seemed to be much the same as usual. The next morning she had breakfast in bed, and after that she vomited. I at that time firmly believed that she was suffering from indigestion, and that the egg had upset her. Major Armstrong was busy that morning making arrangements for her to go away, seeing the doctor and so on. My sister came downstairs when Dr. Jayne came, and she was examined by both doctors.

There was no doubt at all, was there, that on that day you thought it right she should go for a time to this private asylum?—I knew something must be done, and that was the suggestion that was made. She was very melancholy—very depressed. Her condition of worrying about small things and blaming herself for

small things had apparently at that time become intensified. The form of her delusion was that she had done things which she ought not to have done, and left undone things which she ought to have done. I went with her to Barnwood; Major Armstrong and Dr. Hincks accompanied us. Major Armstrong visited his wife when he got leave during the war period, but she was always wondering why the visits were so long between. In August, 1920, when I was at Mayfield, I became aware that there was another will in existence. I recollect speaking to Major Armstrong about her will and saying that she had talked of altering her will. He said, "Yes, that is all right; she has made another." I was satisfied from what Major Armstrong told me then that she had in fact made another will.

So the position then was that you were in possession of a will made in January, 1917, but you knew there was a subsequent will?—Yes.

Re-examined by the ATTORNEY-GENERAL—She had talked of altering her will. When I was in Bath she said, "I think I shall alter my will." She said, "I do not think I have left enough for my husband," because she was anticipating the money that was coming to her. Major Armstrong did not tell me anything about the terms of the will when he told me she had made another will. My sister had not spoken to me again about making an alteration in her will between the time at Bath and the time I visited Mayfield in August, 1920, but she wrote from Barnwood about it, I think, about the end of December or the beginning of January.

AUGUSTA GERTRUDE HUTCHINS, examined by the ATTORNEY-GENERAL—I reside at Rosary View, Torquay. (Shown exhibit No. 16) — The signature to that will, dated January, 1917, is in my handwriting. I witnessed that will at The Knoll, in the dining-room, and Miss Farley and Mrs. Armstrong were present. Miss Farley is the other attesting witness. It was Mrs. Armstrong who asked me to witness the will. The will is in Mrs. Armstrong's handwriting.

Cross-examined by Sir H. CURTIS BENNETT—Some years ago I lived with Major Armstrong and Mrs. Armstrong for six months. I have seen them together from time to time since that. I should say they were a most affectionate couple.

HENRY JOHN HAMMONDS, examined by Mr. MICKLETHWAIT—I reside at 27 Castle Street, Hereford. I am chief clerk at the Hereford Probate Registry. I produce a document which purports to be the will of Mrs. Armstrong, dated 8th July, 1920. Probate was granted on the 30th May, 1921. The gross value of the estate was sworn at £2419 18s., and the net amount was £2278 3s. Probate was granted to the accused, Major Armstrong.

Inez Elsie Rosser

INEZ ELSIE ROSSER, examined by Mr. MICKLETHWAIT—I am a spinster, and I reside at 8 Bear Street, Hay. I was a housemaid at Mayfield. I went there towards the end of December, 1920, and I remained until June, 1921. I remember when Mrs. Armstrong came home in January, 1921. When she came home she had delusions, seemed very strange in her manner, and she thought she heard me about very often when I was not about, when I was in bed. Miss Pearce and I did the cooking between us. I remember when Mrs. Armstrong was so ill that she had to go to bed. Before that she generally had her meals in the dining-room. Afterwards, of course, she had her meals upstairs in her bedroom. It was Nurse Allen who took her meals up to her. I was up in Mrs. Armstrong's room every day at that time. I went to clean up in the morning. During the last morning or two before she died I sat in her room while the nurse was downstairs.

Cross-examined by Sir H. CURTIS BENNETT—After she went to bed the meals were prepared by Miss Pearce, with my help, and they were taken up to her by Nurse Allen. Mrs. Armstrong never ate dinner while she was in bed. Nurse Allen also cooked food for her while she was in bed. It was on the occasions when the nurse went downstairs that she called me up to be there while she was out of the room. While Mrs. Armstrong had delusions I remember her saying that she heard a man walking about the house.

EMILY ELLEN PEARCE, examined by Mr. VACHELL—Up to the time of the death of Mrs. Armstrong I had been in the service of the Armstrongs as housekeeper for nearly ten years. After Mrs. Armstrong's death I continued in the service of Mr. Armstrong, and I remained in his service right up to the time of his arrest. After that I continued to look after the children, and I am with the children now. I remember that in August, 1920, Mrs. Armstrong was taken to Barnwood. I was on holiday at the time, and came back about the 1st of September. I did not see Mrs. Armstrong again until she came back from Barnwood in the following January. When I left to go on holiday Mrs. Armstrong was not very strong; she never was strong. The maidservant in the employment of the Armstrongs when I left was Lily Candy, now known as Lily Evans. She came into their service some time in the spring. I remember signing a document, but I do not remember whether Lily Candy was in the room at the same time or not, but I remember that she was going to sign it. I do not remember signing more than one document. I cannot remember when I signed it. Both Major and Mrs. Armstrong were present when I signed that document. I was not told what the nature of the document was. (Shown will dated 8th July, 1920)—That is my signature. I was back again at Mayfield when Mrs. Armstrong returned from Barnwood on the 22nd January, 1921. She

seemed to be very weak, and only able to walk about a little. She sometimes assisted herself in walking with a stick. Some days she seemed to be better than others. Nurse Allen arrived from Cardiff, and she remained with Mrs. Armstrong down to the time of her death. At first Mrs. Armstrong took her meals with the family in the dining-room, when she was well enough. I did most of the cooking then. Mrs. Armstrong's health changed for the worse about the 14th February. She was out in the garden that day. I helped to keep her warm; she had hot-water bottles and an eiderdown. Shortly after that she became very ill. She thought she had taken cold. Dr. Hincks was called in. Mrs. Armstrong took to her bed somewhere about the 16th February—about a couple of days after she had been sitting in the garden—and after that I do not remember sending any solid food up to her. I think she had only bread and butter during that time.

By Mr. Justice Darling—I mean by her not having solid food that she had only milk food. She had ever so many kinds of things, but she did not eat very much.

Examination continued—She had sago, tapioca, Benger's, and other things—what might be called invalid's food. I used to prepare some of that, and the nurse prepared the rest. The nurse generally carried the food up to the room. At that time there were no other members of the household (leaving out the children) except myself and Inez Rosser staying in the house. We remained the only occupants of the house down to the date of her death. I do not remember seeing Mrs. Armstrong downstairs after she took to her bed on the 16th February. I frequently went up to see her. After the 16th or 17th February the doctor came to see her every day. Mr. Armstrong's office is at Hay, which is about a mile from Mayfield. During Mrs. Armstrong's last illness he came home to luncheon almost every day. On Thursdays, which was market day, he sometimes took his lunch in the office. I always thought that Major Armstrong was on affectionate terms with his wife. He sometimes sat in his wife's room alone with her. I sat in her room while the nurse went to get her meals and a breath of fresh air. I sometimes found Mr. Armstrong there when I went to relieve the nurse. He was not there to relieve me; he used to come up to see how she was.

What I want to know is, did he sometimes sit with her alone?—I dare say he did sometimes.

I only saw Mr. Martin for the first time yesterday. I had seen him on the road before that, but I did not know who he was. I recollect him coming to tea with Mr. Armstrong at Mayfield about 26th October, 1921. Mr. Armstrong had told me beforehand that he expected Mr. Martin to tea, and I got the things ready. I think they had scones and some bread and butter to tea, but I cannot say exactly what they had, as it is so long ago. I do not remember whether I made the scones myself or whether I bought

them. I am not positive whether they were buttered or not, but I do not think they were. Major Armstrong was home some time before the appointed hour for tea. He was in the garden superintending something. I do not remember how long he was home before the time for tea; I do not remember him arriving from the office that afternoon. I cannot remember seeing him before the gentleman came in to tea. The scones and other things were on a three-tier cake basket in the drawing-room. They were standing ready before the gentlemen came in to their tea. There was no one in the room when they were put there. Having put them in the room, I went and had my tea with the children.

By Mr. Justice Darling—After I heard Mr. Martin and Major Armstrong come in I told the maid to make the tea. She put in the tea and took in the teapot, and that is all I know about it. The maid's name was Mrs. Price.

Examination continued—I must have had my tea with the little girl in the dining-room that afternoon. As a rule I had my tea with Major Armstrong, but on this occasion I did not have it with him, because when he had tea in the drawing-room I did not take the little girl in. I knew that Major Armstrong always had weed-killer in his possession, both before and after the war.

Have you known any weed-killer used since Mr. Armstrong came back from the war?—I think so, but I could not be positive. I think Major Armstrong only used the weed-killer when the gardener came to help him.

By Mr. Justice Darling—I do not know whether he used it by himself when the gardener was not there.

Examination continued—We used to dig up the weeds in the paths ourselves pretty often, and a jobbing gardener named MacGeorge also used to dig them up.

Do you remember last year whether in January Major Armstrong was doing anything to the paths with weed-killer?—I do not know; I think he was going to, but I forget whether anything was done or not.

Why do you say you think he was going to?—Because we talked about it many times; I was going to dig up some more weeds, and he said, "We will put some weed-killer down."

By Mr. Justice Darling—I do not remember when that was.

Examination continued—I used to help in the garden.

Was there any weed-killer used last year?—I think there must have been.

But was there?—I cannot remember. MacGeorge was the gardener who was called in to cut the hedges round and trim up generally.

Cross-examined by Sir H. Curtis Bennett—I always used to have my meals with the family unless it was drawing-room tea. I sometimes had my meals in the drawing-room with the family when the children were not there. There was nothing extra-

ordinary about my not going in when Mr. Martin was there. That has happened many times before. I do not remember Major Armstrong coming back before tea on the afternoon Mr. Martin was there. I knew he was in the garden, but I do not know what time he came back. The first thing I knew about him coming back was when I heard he was in the garden. I believe there were two men working in the garden that afternoon, and that Major Armstrong went to see them about the work that they were doing when he came back; and I believe it was while he was still in the garden that Mr. Martin arrived.

By Mr Justice Darling—I did not see Mr. Martin arrive, but I was told he had come. I believe he went into the garden to see the major.

Cross-examination continued—I take it they went for tea then, but I did not see them. I sent Mrs. Price in with the teapot. The rest of the things were in before. I am not certain whether the scones had been bought or whether they were made by me at home. It was the usual custom when Major Armstrong was going to have friends to tea in the drawing-room to put the cakes and bread and butter in the drawing-room beforehand.

About the question as to whether these scones were buttered or not, as I understand it, if you cut the scones, whichever way you cut them to butter them, you would not put them together again?—No.

So if the scone was together it was not buttered, at any rate, in the kitchen?—No, I should not think it was buttered in the kitchen. There was no butter in the drawing-room so far as I know. The butter was kept in the larder.

By Mr. Justice Darling—I do not remember whether the scones were buttered in the kitchen or not. If they were not buttered in the kitchen, and there was no butter in the drawing-room, anybody who ate a scone would have to eat it dry. That was the way they were usually eaten.

Cross-examination continued—To get to the larder anybody would have to go through the kitchen. I did not see Major Armstrong in the kitchen that afternoon. I do not remember being in the kitchen after Major Armstrong came back. I cannot remember whether Mrs. Price was in the kitchen during the afternoon or not. She might have been. At any rate, I did not see Major Armstrong in the kitchen that day. I have been with Major and Mrs. Armstrong about ten years, and during the whole of that time I thought they were always on most affectionate terms.

You had plenty of opportunity of judging, and that is the opinion you formed?—You see the Major was away a long time at the war.

After he came back in 1919, and before he went, they appeared to be on most affectionate terms?—Yes. Mrs. Armstrong was not at all a strong lady. I believe she suffered from indigestion for

years. I was at Teignmouth with her. While she was at Teignmouth she complained of rheumatism in the hands and knees. She sometimes complained that she was losing the power of her hands to play the piano. It came on occasionally. Sometimes she could play beautifully, and at times she could not. She was a fine musician. It upset her very much when she could not play. I remember coming back to Mayfield from Teignmouth about the end of 1918, just before Christmas. Just after we came back from Teignmouth the children had whooping-cough, and I was ill, and Mrs. Armstrong had to do extra work, and she complained of pains in her hands and knees. That would be in the spring. I was away on holiday in August when Mrs. Armstrong went to Barnwood. I remember her coming back on the 22nd January. When she came back from Barnwood she was very much depressed; she was imagining things were happening in the house. I believe on one occasion she came down in the middle of the night to try and find people in the house.

By Mr. Justice Darling—Mr. Armstrong was at home then.

Cross-examination continued—On one occasion Mrs. Armstrong complained that there was somebody behind the piano. That was a delusion. She was quite right on many things. That was the condition in which she came back from Barnwood. When she came back from Barnwood she was still complaining about her hands and feet. She had been away from 22nd August until 22nd January. She continued in the same condition of health until the 16th February. Some days she was able to get up and other days she was not. I remember the 14th February quite distinctly. On that day Mrs. Armstrong was well enough to be out in the garden sitting on a chair. She was just outside the porch.

By Mr Justice Darling—She was wrapped up in an eider-down, and had hot-water bottles at her feet.

Cross-examination continued—Up to the 16th February she had not taken to her bed altogether. On the 16th February she became worse. She thought she had taken a chill in the garden. I do not remember whether it was on the 16th or 17th February that she went to bed and stayed in bed until her death. During the time from the 22nd January, when Mrs. Armstrong came back, until her death I prepared most of the food, because I thought I could do it better; she was not so used to the nurse. While she was well, taking ordinary food with the family, I prepared the food. She then had the same as we had. I prepared the food with the help of Miss Rosser. After she went upstairs, I prepared the food and Nurse Allen took it up to her, as far as I can remember. No one else except Nurse Allen, Miss Rosser, and myself had anything to do with the preparation of her food, so far as I know. I sometimes went up and sat with Mrs. Armstrong while the nurse went out. (Shown exhibit No. 17, a will)—I signed that document in the drawing-room. As far as I remember, both

Major and Mrs. Armstrong were present on that occasion. I do not remember whether I actually saw Mrs. Armstrong sign that document in my presence, but I think I was in the drawing-room and she asked me to sign it, and she put her hand on the paper while I was doing it. She said, "Put it there." After I had signed it Mrs. Armstrong said, "There is Lily; she will sign it." I do not remember whether Lily came into the room while I was there or not. Major Armstrong was always in the habit of coming back to lunch except on Thursdays. No difference was made during Mrs. Armstrong's last illness. The reason why he did not come back sometimes on Thursdays was that it was market day. I remember a day or so after Mrs. Armstrong came back her being up in the attic. When she came down from the attic she asked me whether if any one threw themselves out of the window they would break their back.

Did she, after coming back from Barnwood, say anything about a window there?—She said she tried to get out of the window, but it was fastened. After we came back from being away at Teignmouth you could not tell the path from the lawn; the place was all covered with weeds. Prior to the war Major Armstrong and I very often spent our time weeding the garden. I remember on one occasion before the war helping Major Armstrong to make weed-killer. I helped to boil the water, anyhow. I do not know what the ingredients were. I saw the weed-killer in a watering can after it was made. I remember the children being particularly told not to touch it. I cannot remember Major Armstrong in 1919, the year after he came back, discussing the weeds and getting weed-killer. After we came back from Teignmouth and there were so many weeds I remember Major Armstrong saying he would have to get some weed-killer. He said so two or three times, but I could not say when. I remember a petrol tin being used on one occasion for making the weed-killer. The petrol tin was used because the watering can was not big enough to contain all that we boiled for the garden. I do not remember exactly when that was, but I can remember seeing the can. I do not remember Major Armstrong having any particular instrument through which he used to put something to get rid of plantain. Any little powders or anything like that that had to do with the garden were kept in a cupboard in the library.

By Mr. Justice Darling—I have seen rat poison there, for one thing. I bought it myself.

Cross-examination continued—I have also seen powder for polishing up silver plate kept in there. I do not remember seeing anything else. I was not in the habit of going to that cupboard.

Re-examined by the Attorney-General—I did not know it was a will I was signing when I signed the paper in July, 1920. I believe I was asked to sign documents before then, but I have not been asked to sign any others lately. It was only this morning

that I remembered about Mr. and Mrs. Armstrong both being in the room when I was asked to sign the will. I only remembered about Mrs. Armstrong putting her hand upon the will and saying Lily would sign it this morning.

I want to turn to something else. You told Sir Henry that Mrs. Armstrong a few days after she came home went up to the attic and then said something about if any one threw themselves out of the window they would break their back. I have got your statement of the 3rd February, and you say this, "Mrs. Armstrong never expressed any desire to die"?—I never heard it.

"She was a good-living woman"?—Very.

"And appeared to have no fear of death; I do not think that she realised that she was so ill as she was"?—Well, I did not think so.

So that you did not attach any importance to what she said: if any one threw themselves out of the window they would break their back?—I knew she had delusions, and I mentioned it to Major Armstrong, and he said, "We must get another nurse." Up to the time we went on holiday in July, 1920, and during the time we were away, Mrs. Armstrong played the piano from time to time. Sometimes she could not play because her hands were not very strong, and she used to feel she could not play properly. She complained of neuritis. She also complained of rheumatism in her hands and knees between 1915 and 1918. I think she always had a little of it as long as I have known her. She sometimes complained of it in her face too; she used to call it "tic." I do not remember any particular occasion after we got back to Mayfield on which she complained of rheumatism. I think it was the right arm she complained of most, but I am not sure. She would say, "I have it in my hand again," or something like that. It was nothing to lie up for, only she never was strong, and always had some pain somewhere. When Mrs. Armstrong came back from Barnwood Asylum she complained of her legs very much, but I do not remember exactly what she said. She had them massaged. She said she felt a weight attached to her feet. I did not see Mrs. Armstrong before she went to Barnwood, and I cannot say whether she complained more about her feet when she came back than before she went away. Before I went on holiday in 1919 Mrs. Armstrong was pretty much in her ordinary health. When she came back from the asylum she was much worse.

[At this stage a letter was read by the Attorney-General, from which it appeared that the solicitor for Mr. Armstrong on 17th January objected to any further statement being taken from the witness except in the presence of himself or his representative.

The witness said she thought that since that date she had not given any statement to the police.]

Further cross-examined by Sir Henry Curtis Bennett—My interview with the police on 31st December would last about three hours. Two detectives and sometimes two and sometimes one constable were present. I had another interview on 2nd January, and I first gave evidence at the police court on 11th January. Later I made another long statement to the police on 3rd February at the police station. Only Mr. Crutchett was present. The interview was a long one, and many questions were put to me. On 9th February I was again questioned, just before the Police Court proceedings, during which I was again called. One evening at Hereford I was asked some more questions, and later Superintendent Weaver came to Mayfield and asked me a number of things. No representative of Mr. Matthew's was present at any of these interviews subsequent to 17th January.

Lily Evans, examined by the Attorney-General—I reside at 135 Kew Road, Richmond, in Surrey, and I am the wife of William Henry Evans. My maiden name was Lily Candy. I was a domestic servant at Mayfield in 1920. I went there on the 15th March, 1920, and I remained for nine months, until 15th December, 1920, when I left to get married. (Shown exhibit No. 17, the will of 8th July, 1920)—It was Mr. Armstrong who asked me to put my signature to that document. I was in his study when he asked me. There was no one else present. Mr. Armstrong did not tell me what the document was, and I did not examine it in any way myself. He told me where to sign it. I did not see any other signatures on the document when I signed it. During the nine months I was in service at Mayfield I did not sign any other documents for Mr. Armstrong. I saw Mrs. Armstrong on the day she was taken away to the asylum at the front door before she got into the motor.

Cross-examined by Sir H. Curtis Bennett—I am quite sure I did not sign any other documents whilst I was in the employ of Major Armstrong. (Shown document No. 43)—The signature at the top of that document is my signature. Major Armstrong asked me to sign that. I had forgotten about it. That document is a National Health Insurance form. This document was signed in the study. The other document was also signed in the study. I never signed any in the drawing-room. It was in the afternoon, between dinner and tea, that I signed the will.

Re-examined by the Attorney-General—I got Mr. Armstrong to help me with the National Health Insurance form, because I had lost my medical card, and Mrs. Armstrong was anxious that I should get one in case I was ill. I got the form from Liverpool, because I was in the Royal Liver Friendly Society. I do not remember whether I signed it after Major Armstrong had filled it up or not, but I remember it was in the study that I signed it.

Harriet Elizabeth Price

HARRIET ELIZABETH PRICE, examined by Mr. MICKLETHWAIT—I am a widow, and before I was married I was a domestic servant with Mr. Armstrong. After my husband's death I returned to his service on the 11th of July, 1921. Miss Pearce and I managed the house from that time together; there was no other servant. I remember the occasion when Mr. Martin came to tea. Miss Pearce told me he was coming. Miss Pearce prepared the tea that afternoon. The table was laid some little time before. A loaf cake, bread and butter, and scones were put on the stand in the room. Miss Pearce set the tea. I went into the room when I came downstairs, and I found the tea was prepared. I took the tea in. Mr. Martin was sitting on Major Armstrong's left-hand side, and Major Armstrong was facing the teapot. His back was to the window. The scones were on the three-tier cake stand on Major Armstrong's right-hand side. I came straight out after I took the tea in. While I was there the Rev. Mr. Buchanan called, and I showed him into the study. Major Armstrong went to see him. I lit the gas in the study when he called. When I cleared the tea away the scones that were left were whole. I put them into the cake tin. There were three scones left over. They were put away and eaten later. I do not remember Mr. Martin going away. I have never seen Major Armstrong prepare weed-killer, neither have I seen him using it. I have assisted Major Armstrong in weeding the garden. Miss Pearce also helped in that. I never in the course of tidying up the house, the bedrooms, and so on, saw any arsenic. I do not know what arsenic is. Major Armstrong never mentioned the word arsenic to me. The scones were currant scones, and Miss Pearce made them.

Cross-examined by Sir H. CURTIS BENNETT—The scones I removed after the tea were whole scones; they were not buttered. I removed them from the cake stand, and they were put into the cake tin, and afterwards eaten in the house. I have no doubt about that. The first time I saw Mr. Martin was when he came to tea that afternoon. I saw him in the garden first of all. The next time I saw him was when I took in the tea. The table in the drawing-room was just a small oval table such as you get in a drawing-room, where you just have room to put a teapot and cups on. Major Armstrong was seated at the table for the purpose of pouring out the tea, and Mr. Martin was seated quite close to him by the side of the table on his left-hand side. They were no distance from each other. Having brought in the tea, I went out again and left them. The next thing I did was to go in and tell Major Armstrong that the rector was there, Mr. Buchanan. When I came back I found the gas had already been lighted in the drawing-room. The globe was broken that evening, and I had to go in and clear it up. My duty was to attend to the indoor work. I know there was a great number of weeds on the paths

in the garden. Jay was a man who came occasionally to attend to the garden. There was also a man named MacGeorge who used to come. I would not have known arsenic even if I had seen it lying about.

Muriel Gladys Kinsey, examined by the Attorney-General—I am a nurse, and I reside at Broad Street, Hay. I have been nursing now for some eleven years. I was trained at the Poplar Maternity Home, and afterwards at a surgical home in Manchester, then at a North London surgical home in Finsbury. On the 23rd of January, 1921, I went to Mayfield in response to a telephone message from Major Armstrong. He asked me if I would go up; he said his wife had just come from a mental home, and would I go up and assist Mrs. Armstrong in dressing and undressing. He asked me if I would go up for an hour in the morning and an hour in the evening. He said she was rather weak, and was not quite able to manage herself, and that he would be able to look after her during the day. I went up to Mayfield after I received that telephone message. I found Mrs. Armstrong's physical condition to be good, but her mental state was weak. I went up that day in the morning and also in the evening. I should think it would be between nine and ten in the morning and seven and eight in the evening. When I went in the morning I went into her bedroom and took her to the bathroom to bathe, and I dressed her there. I usually took her down to the drawing-room, where I left her. She was able to walk about the house and up and down the stairs at that time. In the evening I took her up to bed and undressed her. I went on doing that until the 27th. The services that I rendered on each of these successive days were just as I have described. On the 27th Nurse Allen came. During the time I was there Dr. Hincks came to see her once. I do not know whether he called on any other day whilst I was attending her. I think it was the Sunday evening that he came, the 26th. After I left I called again on 10th February. It was just a social call. I saw Mrs. Armstrong. I was very much surprised at her condition. She had a deep discoloration of the skin, and she was very wasted. She complained to me of having severe pains in the stomach, and she had been vomiting badly. She was lying down on the sofa in the drawing-room when I saw her on that occasion. It was in the afternoon, between three and four, as far as I remember. Major Armstrong was alone with her. During the four days I was there, from the 23rd to the 27th, I did not give her any medicine, but she took two pills on the night of the 26th of January. I did not see her take them. She told me she had taken them, and Major Armstrong told me she had taken two pills. I asked Major Armstrong why she had taken them, and he said he thought she had taken them for indigestion, that she usually took these pills for that complaint. I do not know what the pills were. I knew she

Muriel Gladys Kinsey

was taking homœopathic medicine; they were some pills she was used to taking. I did not make any further inquiry about what these pills were, but Major Armstrong told me that she had vomited during the night after the pills. I do not think she vomited while I was with her. I did not hear of her being sick on any other occasion. It was on the 27th that I was told she had taken the pills; she had taken them on the night of the 26th. I left her on the night of the 26th about eight or half-past. She was in bed then. She did not vomit at all while I was there. While I was there the major slept in the same room with Mrs. Armstrong for two or three nights. On the other nights he slept in the room opposite, across the landing. When I called on the 10th of February she looked like a jaundice case. She was very blue round the mouth. She told me she only suffered from vomiting; she did not mention that she suffered from diarrhœa. She was very distressed about the vomiting. She was very sick and was suffering great pain.

Cross-examined by Sir H. Curtis Bennett—During the time I was there, the four days, as far as I could see, Major and Mrs. Armstrong were a very affectionate couple. He was most attentive to her. When I was first of all engaged Major Armstrong told me that during the daytime he and Miss Pearce would look after Mrs. Armstrong. It was quite clear to me that during the time I was there Mrs. Armstrong was suffering from delusions; she had an idea that people were about in the house, and things of that sort. On Wednesday, the 20th, in the morning, when I went for the purpose of helping her to get up, I remember her asking me a question. She asked me if I thought it would be sufficient to kill any one if they threw themselves through the attic window.

Did you really fear that Mrs. Armstrong might commit suicide?—After the remark I thought she was not safe to be left. That was why I suggested she should have a nurse altogether to look after her. I went to Dr. Hincks and told him that that was my view. I also made a special journey to Major Armstrong upon that Wednesday, the 26th, that she made this remark to me, and I told him I thought Mrs. Armstrong ought to have a mental nurse.

Up to the Wednesday night, the night of the 26th, although she had had delusions, and although she had asked you this question and you were frightened about her safety, as far as you know had she been sick?—Not to my knowledge. On the evening of the 26th I had supper with them. It consisted of tinned beef, brown bread, and postum. Postum is a coffee preparation.

Did Mrs. Armstrong tell you the next morning, the 27th, not having been sick as far as you know up to the night of the 26th, that she had had indigestion after that meal and had taken two pills?—No, she did not say so, not after the meal. She told me

herself the next morning that she had been sick, and she had thought she had indigestion and had taken the pills. Mrs. Armstrong also told me on one occasion that nothing on earth would make her take any medicine again, as she thought she had been poisoned with drugs at the asylum. That was one of her delusions. She went on to say that in future she would only take her own homœopathic stuff. I never saw any of this homœopathic medicine. I do not know where she kept it.

Re-examined by the Attorney-General—I never had any experience of mental cases before. My training had been largely for maternity cases and surgical cases. When this incident occurred I thought that the case was one for somebody else; it was not the kind of case I had been accustomed to. I therefore went and saw Dr. Hincks.

The Court adjourned.

Third Day—Wednesday, 5th April, 1922.

Eve Allen, examined by Mr. Vachell—I reside at Newport Road, Cardiff. I am a professional trained nurse. On the 27th of January last I went to Cusop in answer to a telegram I received. I arrived on the evening of the 27th of January, and I took charge of Mrs. Armstrong. I continued to be nurse in charge until her death on the 22nd of February. When I first went there she was very frail, but still she had a good appetite. She took her meals at first in the dining-room with the family. I used to be there at the same time. Mentally I did not find any insensibility about her, but she had certain delusions. The physical state which I have described continued, I think, until the 13th of February, when, after having lunch with us, she went to rest and she started vomiting. That was on a Sunday. I think the vomiting ceased for one day, and I thought she was much better. On the Wednesday I rang up the doctor, but he was out at an urgent case.

By Mr. Justice Darling—She was not vomiting continuously, only occasionally.

Examination continued—By Wednesday her condition had become more serious in my view. She was looking so frail and her colour was certainly very bad. I showed the vomit to Dr. Hincks. She would only keep anything down about twenty minutes and then it returned. I thought that she was worse, and I sent for the doctor. The doctor came the same day. I cannot remember whether the doctor was shown two bottles on that occasion. There were two bottles of homœopathic medicines kept, one of nux vomica and the other I cannot remember. I was giving Mrs. Armstrong some of the homœopathic medicines out of the bottles.

Had you the consent of the doctor to that?—Well, in the end, yes. I cannot remember whether there was any other medicine except what the doctor prescribed that she took in her last illness. The doctor continued to attend Mrs. Armstrong down to the 22nd, the day on which she died. During the last four days of her life I used to feed her myself; she was so ill she was not able to feed herself. She was not able to get out of bed. After Sunday, the 13th, when she was taken with vomiting, she did not get out of bed even for natural purposes. I got her the necessary utensils. Her strength was not very good. I mean she was helpless in many ways. She could not use her hands to feed herself.

Was the use of her legs in any way affected or not?—Well, she seemed to be more or less paralysed; she could not move them about much. Mrs. Armstrong did not lose consciousness until eight o'clock on the morning she died. She died at 10 a.m. On

Mrs. H. R. Armstrong

the morning she died, about four o'clock, I noticed a change in her, and she said to me at that time she had no desire to die. The exact words she used were, "Nurse, I am not going to die, am I, because I have everything to live for—my children and my husband." I saw Major Armstrong frequently during this last illness, because he used to come into the bedroom occasionally. He came in on Sunday, the 13th. He was alone with Mrs. Armstrong. From that time onwards I had to go down to my meals, and Major Armstrong usually stopped in the bedroom—either Major Armstrong or Miss Pearce. I did not leave the room to go to my meals until I was relieved by one or other of them. On my return from my meals I found him there still. I then took over the duty. I would be away at my meals about twenty minutes or half an hour. From the Monday morning, the 14th, onwards, she ceased to have anything except invalid food—milk, Benger's food, soda water and milk. The Benger's food was given in fluid form; it was mixed with milk. The Benger's food would be prepared in the kitchen downstairs. I sometimes prepared it. She did not take very much. I sometimes made sufficient to go throughout the day. I did not take it all up to the sickroom at once; I only took up what I would call a feed at a time. As regards the milk and soda, the soda was got from a sort of tap on the table in the bedroom. The milk was in a jug covered over in the bedroom. From time to time she took a drink of milk and soda. Occasionally I went for a breath of fresh air, and somebody else gave her her feed. Major Armstrong sometimes stayed behind to feed her.

By Mr. Justice Darling—I was not long away when I went out for a walk. I am a registered nurse belonging to a corporation, and we are bound to go out at certain times. During the last days I did not go out walking.

Examination continued—I had to go down, of course, for my meals. Even after the 13th Major Armstrong or Miss Pearce at times gave her her feed. The vomiting ceased, I think, on the Tuesday, and I thought she was much better. That would be the 15th, I think. With the exception of that day, the vomiting always occurred after she took food. I kept notes at the time, but they have been destroyed. The food would keep down for twenty minutes, and after that time it returned. After the doctor came she was not able to retain her food, even the Benger's came back in twenty minutes. From the 16th on until her death she was vomiting. Two days before her death she was troubled with diarrhœa. Her legs and arms were wasting very much. The skin, I noticed, was going very dark and copper coloured. I cannot remember when I first noticed that colour. I also noticed sores about her lips.

Did she show a desire for food?—Yes, she was very anxious to get better. She made attempts to keep the food down. I did

not see Major Armstrong in the house on the day of her death until abount lunch time. On the last day, in the early hours of the morning, about 4 a.m., I noticed a change in the patient's condition. Major Armstrong was sleeping in the opposite room, but I did not rouse him or send any message to him until about eight o'clock. She was then quite conscious. At eight o'clock I sent the maid to call Major Armstrong. He came in at eight o'clock. The doctor, I think, came about 9.30. I cannot remember whether Major Armstrong was present then or not.

By Mr. Justice Darling—When Major Armstrong came into the room Mrs. Armstrong spoke to him, but what passed between them I do not know. She was then very weak; she was on the point of dying. I realised that she was much weaker, and there was really no chance. I thought she was dying. She died at 10 a.m.

Cross-examined by Sir H. Curtis Bennett—When I first of all went to look after Mrs. Armstrong I was told that she was suffering from delusions. I saw Nurse Kinsey when I arrived at Mayfield, and she told me that she thought this was a case that required a regular attendant. She told me she was afraid that Mrs. Armstrong might commit suicide; she told me what Mrs. Armstrong had remarked. It was quite clear to me from the 27th of January onwards for the first fortnight that Mrs. Armstrong was suffering from delusions, but her health at that time was fairly good. She was very frail to look at. For the first fortnight at any rate there was no sign of vomiting. During that time she was downstairs and taking her meals with the rest of the family. She generally had her breakfast in bed, then I used to dress her and she would get up by lunch time. She would have her lunch and tea and her supper with us in the dining-room. During the whole of that time her appetite was fairly good. The first time I recollect her vomiting was on Sunday, 13th February, after lunch. I think the lunch on that occasion was boiled leg of mutton and vegetables, and for sweets I think junket and preserved gooseberries. We all partook of that meal. It was served in the dining-room. After that meal I had just gone upstairs to prepare to go out when Pearson, the little boy, came in and told me his mother was sick. That would be about twenty minutes after lunch. That was the first vomiting that had taken place at all since I had been there. She had complained before about feeling sick, but she had not to my knowledge vomited. She had told me that she always suffered from indigestion.

Did you know that she had taken some pills while you were there from time to time?—Yes, she told me she had always taken them. She used to take them at night after supper.

Do you know whether she took any that day?—No, I took them away; I thought probably it might have had an effect on the vomiting.

Evidence for Prosecution.

Eve Allen

After this vomiting you took away the pills?—Yes, I hid them; I wanted to see if they were the cause of her vomiting. She did not have any more of these pills to my knowledge. On hearing from the little boy that his mother was sick I went down to her. I undressed her and put her to bed. I gave her a glass of hot water with a pinch of bicarbonate of soda in it to see if it would stop the vomiting. She was retching a great deal. I think she vomited slightly during the night. That was the night of the 13-14th. She was not much better on the Monday. It is not the case that she sat out in the porch on the Monday. The occasion on which she sat out in the porch, and when she got a chill, was the Friday before the Sunday, the 11th of February. It was the latter end of the week that she sat with the eiderdown and the hot-water bottle in the porch. I arranged that for her with the help of Miss Pearce. I am quite sure that it was some day before Sunday, the 13th of February; it was either Thursday or Friday. I left my notes which I took in Mrs. Armstrong's bedroom, and what became of them I do not know. I cannot recollect whether on Monday, the 14th, I went out for a walk in the afternoon.

Would you be out for two hours?—I would, naturally, if Mrs. Armstrong was all right, but I cannot recollect whether I was out that day or not. I recollect that Mrs. Armstrong did vomit on that Monday, but I cannot remember when it was. She had some calf's-foot jelly, and after the calf's-foot jelly she vomited. That calf's-foot jelly was got from a shop in Hay, but I do not know who fetched it. The vomiting on that day was not quite so bad as it was on the Sunday. On the Tuesday she was not so bad; I thought she was much better on the Tuesday. The vomiting restarted on the Tuesday or Wednesday. It, however, had restarted on the Thursday, because I rang up the doctor. After the sickness on the Sunday Mrs. Armstrong requested me not to send for the doctor. I think the reason why she did not want the doctor was because, like myself, she thought it might be a bilious attack. I did not send for the doctor. I rang the doctor up on the Thursday. I got some calomel for her, but she did not have it.

By Mr. Justice Darling—Calomel is given for the bowels as an aperient.

Cross-examination continued—The only solid food Mrs. Armstrong had had up till that Thursday was the calf's-foot jelly. She, of course, had milk and things of that sort. As regards the preparation of the Benger's food, you have to bring the milk to a certain temperature and then mix it with the Benger's food. I prepared some of that food. She did not take that only; she also had milk and soda. She was also having brandy at that time, I think. I am not quite sure whether she was having champagne then or not. I prepared the Benger's food in the kitchen. I put it in a jug usually and took up sufficient for Mrs. Armstrong. The jug would be left in the larder.

Eve Allen

By Mr. Justice Darling—I did not take the whole jugful upstairs. I think I put the jug in the larder.

Cross-examination continued—The jug would remain there until I wanted the next feed, then I would go downstairs and take some of the already prepared Benger's food up again. I heated up sufficient for the next meal. The times of the meals varied; she was having very small meals, but frequently. Benger's food was given in between the soda and milk, and in between that she would have kettle broth. She would have something to take every fifteen or twenty minutes; she was taking it alternately—soda and milk, and then broth, and then Benger's food.

By Mr. Justice Darling—The kettle broth was made in the kitchen. I did not make a lot at one time; it was made fresh every time. She would be having Benger's food about once every hour.

Cross-examination continued—From the 17th, when the sickness started again, till the 22nd, I had very little rest either night or day. At night time I was sleeping in the same room as Mrs. Armstrong. Major Armstrong was on the opposite side of the passage. During the day time I would only be away from Mrs. Armstrong for twenty minutes or half an hour, and before going away I saw that Mrs. Armstrong had everything she wanted. When I came back I sometimes gave her something to take. I usually gave her something to take before going away for my meals, and she would not require anything until I came back again. I always timed the feeds so that she had a feed every twenty minutes. I always chose the time I thought best to be away for my meals. Major Armstrong used to go away to the office in the morning and come back again. He usually went off about 9.30 and came back about one. Then he went away again about 3.30 and came back about five. He usually came in to see his wife during the time he was at home. As I have already stated at the Police Court, they were on most affectionate terms during the whole time I was there. I am not sure whether from the Sunday onwards I had my meals with Major Armstrong, but up to that time I did have my meals with him. I cannot remember whether I had my mid-day meal with him after that or not. At any rate, I had my meals down in the dining-room. During the time I was downstairs Miss Pearce or Major Armstrong was upstairs with Mrs. Armstrong. It would not be correct to say that after that Thursday she appeared to be very much better on the Saturday. On the Tuesday or Wednesday I should say she was a little better. At the foot of Mrs. Armstrong's bed, upon the wall just over the fireplace, there was a medicine chest. It would be a good distance from the foot of the bed. I do not think she could touch it from the bed. You might be able to stand at the foot of the bed, holding the end of the bed, and touch the cupboard. That was the

cupboard in which Mrs. Armstrong kept her homœopathic medicine. I never examined the contents of that cupboard.

Up to the Sunday before she died—that would be the 20th—would she be able to get out of bed for natural purposes?—No.

Let us see what is meant by this—" In the early days she would get up for natural purposes. I was always standing about until I saw her coming back; I followed her. She was not up from Sunday, 20th February." Was not she getting up for natural purposes up to that Sunday? What I am reading to you is what you said in cross-examination at the Police Court. Would she get up for natural purposes up to the Sunday?—Not after the Sunday when she was ill. She was exceedingly weak, and if she had attempted to get out of bed she could not have done so.

I must put it to you again. At the Police Court when you were asked a question you said, " In the early days she would get up for natural purposes." That may be quite early days?—A fortnight before the vomiting started.

Let me read the whole of it before you give your answer, and then you will appreciate the point—" In the early days she would get up for natural purposes. I was always standing about until I saw her coming back." Did not that mean that you were standing about until she came back from the lavatory?—Of course I was always with her wherever she went. I mean to say, it was only natural.

By Mr. Justice Darling—When I say " I was standing about until I saw her coming back " I mean I would be on the landing or not very far away. She would be coming back from the water-closet.

Cross-examination continued—I mean in the early days she would get up for natural purposes—before this vomiting started on the Sunday. I do not think she got up after the Sunday. The first time I was asked with regard to all the details of the vomiting, &c., was on 1st and 2nd of January of this year, rather more than ten months after Mrs. Armstrong died. I have already stated that two days before her death Mrs. Armstrong had diarrhœa. That continued until she died. I remember the case so well, because I never had such a hard case. I made notes of the case which I left behind. It is usual to put down the time the person takes food and the time she vomits. As I have already stated, I noticed at four o'clock in the morning on the day Mrs. Armstrong died that there was a change for the worse. I remember sending the girl to call Major Armstrong at eight o'clock that morning. Mrs. Armstrong was then quite conscious. They had some conversation together which I did not hear. Dr. Hincks arrived about twenty past or half-past nine. I remember Major Armstrong coming to the bedside with the doctor when he came on that occasion. That was the second occasion on which I saw Major Armstrong that day. I remember Dr. Hincks saying that he

thought Mrs. Armstrong was dying, but that she would probably live the day. Major Armstrong went out when the doctor went out. Mrs. Armstrong died at ten o'clock that morning. The next I saw of Major Armstrong was about one o'clock.

By Mr. Justice Darling—From the time Mrs. Armstrong died until I saw Major Armstrong I was engaged in clearing up. I laid Mrs. Armstrong out. I was in and out the room where she lay dead occasionally, going back and forward from the kitchen to the bedroom. That went on till about one o'clock. Major Armstrong did not go into her room between ten and one o'clock to my knowledge.

Re-examined by Mr. Vachell—The first vomiting I saw by Mrs. Armstrong was after the midday dinner on Sunday, the 13th. The two children, Major Armstrong, Mrs. Armstrong, and myself partook of that dinner. Miss Pearce was also present and had dinner with us. We all took the same food. There was nobody else ill to my knowledge. I put Mrs. Armstrong to bed on the 13th. After that she took everything, all her meals and feeds, in her bedroom. The only solid food, as I have already stated, that she took was calf's-foot jelly. I think it was the Thursday that the doctor was called in, but I have not seen my notes since, and I cannot tell definitely. I did not have a case book in which to put my notes; my notes were on paper fastened together. When I left her bedroom I took the notes with me to my own bedroom. I do not know whether I brought them back on the morning she died or not, there was so much confusion, but I think the last time I saw them was in Mrs. Armstrong's bedroom. I do not remember whether between ten o'clock and one o'clock on the day Mrs. Armstrong died I cleared away my notes from her bedroom. During the last four days of Mrs. Armstrong's life she was taking Benger's food, milk and soda, and kettle broth. When she wanted a drink of milk and soda she would ask for it. The syphon stood in the room, and the milk was also in the room covered up. During the last days of the case, when Mrs. Armstrong was so obviously ill, I did not take my proper allowance of time off, but I would have to leave the sickroom for my meals.

By Mr. Justice Darling—During the last four days of her life she was not able to sit up in bed. She sat up to vomit on the Monday. I cannot remember her sitting up after that. That was Monday, the 14th, eight days before she died. She was not able to take her food during the last four days; we had to feed her. She could not even sit up in bed. She did not get out of bed during those four days to my knowledge. I do not think she could have managed it. When it was necessary for her to relieve herself I gave her the utensil into bed. I cannot remember how many days before that I did that. I do not think she got up at all from the Sunday on; she was very ill.

As I understand it, it is suggested that she could after the

13th have got out of bed and got a bottle out of the cupboard above the fireplace. What do you say to that?—I do not think it was possible.

You have said you do not think it possible that she could have done it after the 13th, that is the Sunday, but what do you say to any time during the last four days?—I do not think it was possible then, because she was so much weaker. During the last four days she was much weaker than on the 13th.

Did you ever find at the time you were there, before or after her death, anything about the room out of which she might have helped herself to a poison?—No, the two bottles that she was taking were taken out of the cupboard entirely; one was nux vomica, but I cannot remember the other one. If she wanted one of these nux vomica things I usually gave it to her; I gave her all her medicine. I put the bottles back into the cupboard. They were not large bottles, just homœopathic things.

A bottle of very, very small pills, were they? Do you know homœopathic medicines?—No, I do not know them, but I saw more of them when I was there than I have seen at all; they were dinner pills that she took.

Lucy Alice Lloyd, examined by Mr. Mickleethwait—I reside at 24 Castle Street, Hay, and I am a district nurse employed by the Hay and Cusop District Nursing Association. I was asked to go to Mayfield on Sunday, 20th February, for one night to relieve Nurse Allen. I went there between nine and ten at night. I took my things off and went straight up to Mrs. Armstrong's room. Major Armstrong was in the room when I went in. Miss Pearce went upstairs with me. She showed me the things which were ready for use, and pointed out everything to me. She then left me alone with Mrs. Armstrong. Major Armstrong went out with Miss Pearce, and they left me alone in the room. I felt Mrs. Armstrong's pulse as soon as I got there. It was very weak. I sat up with her the whole night. During the early part of the night she was very restless. She had two severe attacks of vomiting. Directly after she vomited I warmed milk food for her. The milk was in the room in a jug covered over. Mrs. Armstrong complained of pain in the abdomen. She had a motion that night. I gave her a dose of medicine from a bottle on the table. I cannot remember whether the motion was diarrhœa or not. She went to sleep after that, and slept until I went at eight o'clock in the morning.

Cross-examined by Sir H. Curtis Bennett—I was with Mrs Armstrong for between ten and eleven hours on the Sunday night.

It has been said that for the last forty-eight hours—the last two days of her life—she had diarrhœa. During the time you were with her, ten or eleven hours, she had one motion?—One motion.

Lucy Alice Lloyd

And that is all?—That is all.

She vomited twice during the night?—Yes, I cannot remember the time between the attacks, but it was from twelve to two the vomiting occurred. After I gave her the second lot of milk she did not vomit again. I gave her the milk out of the jug which I found covered up when I arrived there. From two o'clock until eight o'clock she calmed down and had a good sleep.

John Arthur Rangecroft, examined by Mr. Micklethwait—I reside at 69 Torrington Road, Catford, and I am senior laboratory assistant at the Clinical Research Association, Watergate House, Adelphi. On the morning of the 1st of November I superintended the receipt of certain specimens which arrived by parcel post. There were two packages amongst the specimens. A letter from Dr. Hincks, of Hay, came by post the same day. After reading the letter I kept the specimens myself under lock and key. A letter was written to Dr. Hincks from the Association, and I kept the specimens by me until the 19th of November. On the 19th of November, in consequence of a telegram from Dr. Hincks, I handed the specimens to the lady clerk, who in turn handed them to a district messenger addressed to Mr. Webster, St. Mary's Hospital, Paddington. I produce the receipt which was given to me by the district messenger, and it is exhibit No. 9.

Humphrey Vines Webb, examined by Mr. Vachell—I reside at Caledonian House, Bear Street, Hay, and I am an undertaker. I knew Mrs. Armstrong for a number of years prior to her death. I carried out the arrangements for the funeral. The coffin was made in my workshop, and I engraved the nameplate. The coffin was lined with wadding and domett. There was a pillow under the head and some sawdust and shavings put in the bottom of the coffin. My son and I put the body in the coffin ourselves along with my men. We used a towel to lift the body into the coffin. That towel was placed in the coffin over the body and underneath the side. A silk pocket handkerchief was placed on her face. She was buried in Cusop Churchyard on the 25th of February, 1921, in my presence. On the 2nd of January, 1922, I was present at Cusop Churchyard when the body was exhumed. I helped to lift the coffin from the grave. It was the same coffin which I had placed therein in February, 1921. The coffin was removed to Church Cottage, Cusop. At ten o'clock on the 3rd of January I opened the coffin in the presence of Dr. Spilsbury, Dr. Hincks, Dr. Ainslie, Deputy Chief Constable Weaver, Chief Inspector Crutchett, and Sergeant Sharpe. I saw the body. It was the body of Mrs. Armstrong. The towel and the handkerchief and other things were exactly as I put them. I was present at the post-mortem examination, and I subsequently replaced the body for interment.

Evidence for Prosecution.

The ATTORNEY-GENERAL—My lord, I wish to call the lady to whom I referred in opening. I would, subject to your lordship's direction, like to adopt the course which was taken before the justices; her name was passed to the justices, but it did not appear publicly. I am quite ready to take any course which has your lordship's approval and which my friend would like me to adopt.

Mr. JUSTICE DARLING—Do you want the name given in Court?

Sir H. CURTIS BENNETT—No.

Mr. JUSTICE DARLING—It can be put on a piece of paper and handed to the jury.

The ATTORNEY-GENERAL—I am absolutely in your lordship's hands. I have no feeling on it one way or the other.

Mrs. ——, examined by Mr. VACHELL—I know the prisoner at the bar. I first met him, I think, in November, 1915. That was when he was with the Forces and on some duty in England. He was not at all particular in his attentions to me at that time. I knew he was married. I never met his wife. He was stationed for some time at Christchurch near where I live. I saw him there from time to time. After my first introduction in November, 1915, I saw him from time to time. That continued while he was stationed near my home. I cannot tell you how long it lasted. He would be stationed there for six months, and then go away for a few months and come back again. In 1920, after he was demobilised, I met him in London. It was the first week in July. I met him by appointment. We dined at a restaurant. He was just a family friend at that time. I saw him next at the end of April. He told me then he had been abroad. He came to see me and my mother. I had heard before that that his wife was dead. He wrote and told me and my mother. I cannot remember whether it was the 28th or 29th of April when he paid that visit. It was just ordinary conversation that passed between us then. I have no recollection of him being at all particular in his attentions to me on his visit on the 29th of April. I next saw him at Whitsuntide, when he came to Bournemouth. On that occasion he asked me to consider the idea of marrying him. That was either the 14th or the 15th of May. I said I would have to give the matter great consideration, because I had very great responsibilities—my mother and my ward to arrange for.

Having given it due consideration did you arrive at a conclusion?—I was never definitely engaged.

Did you visit his house at Mayfield?—I spent one day and night there in October last. The next time I saw him after Whitsuntide was in August. We discussed the subject of marriage on that occasion, but nothing more was settled. I did not see him again before I paid my visit to Cusop.

Were you then on the footing of his fiancée?—No, certainly not.

Mrs ——

By Mr. Justice Darling—Did you ever promise to marry him?—Not definitely; I was considering the matter.

Until now you have not definitely promised to marry him?—No.

Examination continued—You did correspond with him?—Yes.

I do not want to be embarrassing, but there were certain letters of yours found on Major Armstrong when he was arrested. You know that, do you not?—I did not know that.

[The Attorney-General desired to have the letters identified, but Sir H. Curtis Bennett objected. The letters, however, were admitted for identification only at this stage, the witness initialing each as it was presented to her.]

Cross-examined by Sir H. Curtis Bennett—At the time I first met Major Armstrong he was billeted with some old friends of mine. He became known not only to me but to my mother and to other members of the family. Certainly up to Whitsuntide, or about that time, he remained just a family friend. He never disguised from me the fact that he was a married man with three children. From what he said to me I formed the opinion that he was an affectionate husband and father. The visit in April last year was just an ordinary visit to my mother and myself. After Mrs. Armstrong's death my mother and I wrote letters of sympathy to him. At the time of the visit (July, 1920) to London it so happened that I was staying with friends in London for a week. I did not go up specially from the country. I dined with Major Armstrong on that occasion. I went to Hay on one occasion for one day and one night. At that time I happened to be in the district, at Cheltenham, and I came over from there. I was staying with relations. At the time I went to Hay the housekeeper, Miss Pearce, was there. There was also one of the children there, the one that was not at school, the youngest. From 1915 until May, 1921, my friendship was just an ordinary friendship with a man who was a friend of my family. From May, 1921, until to-day, although there was discussion as to marriage, I was never engaged to him.

Arthur Chevalier, examined by Mr. Vachell—I am a solicitor in practice in Liverpool. I have known Mr. and Mrs. Armstrong for a number of years. I knew them before the outbreak of war. I was in the habit of visiting them. I did not regard one as a greater friend than the other; one was a friend of longer standing than the other, that is all. I refer to Major Armstrong. During the war I joined the Forces, and, of course, I saw less of him. I was demobilised early in 1919 for special reasons, and I went to see him, I think, in the autumn of that year at his home.

Coming to August, 1920, somewhere about the 19th of that month I received a telegram from Major Armstrong, in consequence

of which I travelled to Cusop. When I arrived I found Mrs. Armstrong was not herself; she looked very ill physically, and it was quite evident that she was not at all clear mentally. So far as I can recollect, she had some meals with us during the time that elapsed between the Thursday and the Sunday morning. Major Armstrong told me when I first met him that Dr. Hincks was attending her, and Dr. Hincks came the same evening when I was there. Major Armstrong, very shortly after I arrived, went over with me to Dr. Hincks', and we had a consultation at his house. It was then arranged that she should be removed to a private asylum, and on the Friday Miss Friend, her sister, was telegraphed for. I think I suggested that to Major Armstrong, and he fell in with it at once. She came on the Saturday. Major Armstrong did not say anything to me about his wife having made another will. I knew at that time of the existence of the will she had drawn up in her own handwriting. I knew I was an executor under that will; she told me she had appointed me, or intended to appoint me. I had no conversation on testamentary subjects on my visit in August with either of them. I prefer to leave the evidence as to her physical condition to others. I did not travel with her and Major Armstrong and her sister on the Sunday; I remained in the house. It was quite obvious to me that Mrs. Armstrong was in poor health. I returned to Liverpool on the Monday morning, the next day. The next I heard from Mr. Armstrong was a letter I received from him before his wife returned from the asylum. Mrs. Armstrong wrote to me twice from the asylum. I received a letter from Mr. Armstrong after his wife returned from the asylum, but that letter has been destroyed.

[At this stage the witness initialed the two letters he received from Mrs. Armstrong.]

As regards the letter I received from Mr. Armstrong after his wife came back from the asylum, in that letter, if I recollect aright, he said he was glad to have her home, as he thought she would be better at home than in the asylum, and would recover more quickly in her home surroundings. I may have had a letter between that and Mrs. Armstrong's death, but the first I recollect particularly was the one announcing her death. I went to her funeral. Either on the day of the funeral, or the day after, I had a conversation with Mr. Armstrong in which he referred to the will. I cannot remember how the subject arose. We were sitting in his smokeroom, smoking and talking of matters generally, and he said, "I thought I ought to tell you that my wife has made a fresh will in which she has left everything to me and appointed me sole executor." I said, "When did she make it?" He replied, "In the summer." I did not say anything more on the subject. He also said, "Although my wife has left everything to me, I intend to use it for the benefit of the children." Miss Ida

Bessie Friend, the sister, showed me a document. It appeared to be the draft or the copy of a will Mrs. Armstrong had made, as far as I could judge, some years before. I only glanced at it. I had not an opportunity to read it, because the place where she showed it to me was in the house where the children and others were constantly passing. I handed it back to Miss Friend. I have a sort of recollection that it was on what lawyers call blue draft paper. I have never seen it since. I have seen the original of Mrs. Armstrong's will of 1917. Miss Friend sent it to me by post after Mrs. Armstrong's death. I sent it back to her by registered post as quickly as possible. (Shown exhibit No. 16)—That is the will I refer to.

Cross-examined by Sir H. Curtis Bennett—The original of the 1917 will, I believe, was in the possession of Miss Friend all the time. After Mrs. Armstrong's death it was sent to me, and I perused it and sent it back again. I have known Major Armstrong ever since the year 1891, and from that time I have kept up a friendship with him until this case was started. Before Major Armstrong's marriage I visited him at Hay. At the time of his marriage he asked me to be trustee with his future sister-in-law, Miss Ida Friend, of the marriage settlement. I am still trustee of that marriage settlement, and it is still in my possession. It is quite in the usual form of the settlement of property and furniture for joint lives, the furniture is to pass absolutely to the survivor, and Major Armstrong settled a policy for £1000 on his life, of which, when it fell in, the income was to be paid to his wife for life in the usual way, subject to any appointment by the husband or wife of the survivor of them—both the policies to be held in trust for the children in equal shares. After his marriage I visited him practically every year. During my visits I realised that Mrs. Armstrong was a highly strung lady, inclined rather to worry over trifles, but that they appeared to be a very happy and affectionate couple. I remember visiting Hay in October, 1919. I formed the opinion then that Mrs. Armstrong, although rational, was in a nervous and excited state of mind. On another occasion in August, 1920, I warned Major Armstrong that in my opinion I thought his wife might try to commit suicide. I told him that she was clearly to my mind then suffering from delusions, and that she had frequently expressed to me that she was a wicked woman—was likely to bring her husband and family into trouble from something she had said. I cannot say I attached very much importance to the accuracy of this statement, because I do not think she was fully mentally responsible for what she was saying. My reason for thinking that she might commit suicide was that, while I was in the house during the day when Major Armstrong was at his office, I had to fetch her back from the road where she had gone with the intention, I believe, of going to Major Armstrong's office for no reason that I could understand;

and she kept coming to me in the smokeroom, where I was sitting with the door open, really keeping my eye on her as much as possible, with the help of the maid, so that she should not do anything foolish. I remember telling Major Armstrong that it would be advisable that he remove from his room anything like razors, and he did so. I do not know that he removed a revolver also. I think Lily Candy was there on that occasion. I think she was the maid I warned to keep an eye on Mrs. Armstrong.

After October, 1919, I did not see her again until I was sent for on the 19th of August, 1920. As far as I can recollect, Major Armstrong met me at the station. I remember his telling me that his wife was out of health and under some delusions—under the impression that something she had done would bring harm to herself and her children. I formed the opinion that she ought to have attention. When I suggested that she should go away from home, and that he should see Dr. Hincks about it, Major Armstrong at once went with me to see Dr. Hincks. After that interview another doctor was called in, and she was taken to Barnwood. It was at the suggestion of Dr. Hincks that a second doctor was called in. That doctor came on the 20th or 21st, on the Sunday morning.

I got a letter written on the 29th of December from Major Armstrong. In that letter he says, "We keep fairly well. My wife varies. She does not get so much rheumatism, but a lot of indigestion, with the resulting troubles." I do not think there is anything more of importance in that letter. The next letter from Major Armstrong was on the 2nd of January, 1921. That letter was written from Mayfield, Hay, *via* Hereford, and it says, "My dear Arthur—Thanks for your letter and good wishes. There are no regulations as to letters at Barnwood, and as far as I know none are opened. I think I should reply in a cheery strain without referring unduly to the letters, but rather treating them as retarding her return. I saw her last week and found her generally better, but still worried over her shortcomings. I think this will finish on her return home, as she has too much time for introspection, and most of the trouble exaggerates her present state. She thinks she will not return, and therefore dwells on the present. As soon as I can persuade the M.O. that she can be removed I will have her back, as I do not think she will imimprove in the least where she is. When she finds she is really back she will pick up, as she is certainly physically better. It is quite clear the loss of power was functional and not organic. They had to call it neuritis for want of a better name." Then he refers to the weather, and so on, and it is signed, "Ever yours, H. Rowse Armstrong."

I got another letter, dated 8th May, 1921, from Major Armstrong, written from Mayfield, Hay, *via* Hereford, in which he says, "My dear Arthur—Once more I am back—arrived home a week ago, and am glad to say am quite fit again. You would

not know me for the same person, and I can now face the future with a correct sense of proportion, which I temporarily lost." That was about four months after his wife's death. Then he goes on to deal with the different places he stayed at, and in the last paragraph he says, "I want some one to come and keep house for me during June as my guest while Miss Pearce goes to Teignmouth with Margaret. Do you know of any one, as I am at my wits' end. Yours as ever, Herbert."

In one of the letters I have referred to written by Mrs. Armstrong to me, dated 21st December, 1920, she says, "Dear Mr. Chevalier—I am filled with remorse at the thought of the indifference with which I treated you, and your great kindness in August last. I have ever since I came. Your face is constantly before me and your words in my ears. I remember my wicked indifference to your health. I cannot think how I could leave thoughtlessly such a husband and children, sister, friends, and nieces. I did not even take comfort from the hymn E. wrote out and put on the dressing-table. She is really a wonderfully good child." And then she goes on to religious matters. The envelope of the next letter is dated 31st December, also written from Barnwood, and it says, "Dear Mr. Chevalier—A huge request. Will you, if at all possible, come to see me on urgent business to-morrow or Monday? I never showed you a document in which your name occurs. Oh, do come for love of my husband and children. I am unworthy. With kindest regards. Yours sincerely, K. M. Armstrong." There is a postscript to that letter which reads, "I improve, but do come without delay."

As I have already stated, I have seen the 1917 will. I do not know, except what I have seen in the newspapers, what the whole estate of Mrs. Armstrong was proved at. It was stated at £2300. The first will left Major Armstrong £50 a year up to a certain length of time, up to 1933, I think. Then there were certain bequests to the children, and Major Armstrong's income was to be increased to £100 a year. If the trustees chose to give it to him he would have been entitled to the balance of the income over £50 for the maintenance of the children up to the time that they became twenty-one. Then in 1933 he would be entitled to £100 a year, with or without the discretion of the trustees. The total amount of the estate was £2278, which would bring in £100 a year, so that under the new will, instead of being entitled to £50 with the discretion of the trustees, he would be entitled to the capital, which would bring in £100 a year. I know as a fact that until this prosecution was started no attempt was made by Major Armstrong to realise any of that except a small sum for paying costs.

Do you not know that the whole of that sum of which Mrs. Armstrong died possessed, except a small matter which went in costs, is now standing in the names of yourself and Mr. Matthews,

the solicitor for Mr. Armstrong?—There was an undertaking that no other part of the estate should be realised without notice to me.

I am right in saying, am I not, that in fact, although Mrs. Armstrong died on the 22nd of February last year, the whole of that estate, with that exception, is in fact intact?—That is so.

ROBERT MACGEORGE, examined by Mr. MICKLETHWAIT—I reside at 15 Bear Street, Hay, and I am a jobbing gardener. I have been working at Mayfield from the beginning of October last. I have not used any weed-killer since I have been there. Major Armstrong never spoke to me about weed-killer. I never saw him use it. When I went there there was a tin containing some weed-killer in a tool box in the stable. I did not look inside it.

By Mr. JUSTICE DARLING—I knew it was weed-killer by the description on the tin.

Examination continued—Major Armstrong never mentioned arsenic to me, nor did he ever mention any method of making weed-killer.

Cross-examined by Sir H. CURTIS BENNETT—It was only in October, 1921, that I went there. I remember the day in October when Mr. Martin came to tea. I saw Major Armstrong that morning before he went to the office. At that time the garden was generally in a very bad state. I spoke to Major Armstrong about shifting some trees. He proposed coming up early in the afternoon for the purpose of telling me where to put them. The next I saw of him was him coming through the main gate from the road just after four o'clock. He came straight to me. After speaking to me he went into the house to take his cap and coat off, and came straight out again immediately. On coming out again into the garden he was with me right up to the time when Mr. Martin arrived. I actually saw Mr. Martin coming. Major Armstrong then left me and went to Mr. Martin, and they went into the house together. They went into the garden first and then went into the house.

Re-examined by the ATTORNEY-GENERAL—Major Armstrong would be with me, roughly speaking, about three-quarters of an hour. I knew Mr. Martin by seeing him in town.

WILLIAM JAY, examined by Mr. MICKLETHWAIT—I live at Castle Gardens, Hay, and I carry on the business of a market gardener. I have known Major Armstrong for a number of years. I used to be a jobbing gardener, and did work for him. When I became a market gardener he still continued to employ me. During the war Mayfield was let, and I continued to look after it. I think I used weed-killer on one occasion then. In 1920 I got some weed-killer. I got liquid weed-killer on one occasion and powder on another. I did not use all the powder; about half a tin was left. It was in the tool box in the stable. I

believe the last time I was up there was somewhere about the beginning of October. I did not use any weed-killer in 1921. Before getting the weed-killer I asked Major Armstrong about it, and he agreed to it. I reckon a tin of weed-killer would make about 18 gallons. Major Armstrong may have mentioned about the paths being bad or something of that sort in 1921, but he did not say anything about using weed-killer. I never saw him mixing any weed-killer or using it. He generally consulted me about the garden. I have a recollection that he mentioned at one time something about some weed-killer with arsenic and caustic soda. I should think that would be in 1919. He said he had a recipe for making some weed-killer.

Cross-examined by Sir H. Curtis Bennett—Mayfield was a terrible place for weeds. The garden was practically surrounded by fields. From the beginning of the time I went there I had always found considerable difficulty in dealing with these weeds. I have measured the paths on which the weeds used to grow; it amounts to something like 800 square yards. Before the war there was a boy specially kept to look after the weeds. Major Armstrong certainly mentioned on that occasion I referred to something about making weed-killer. He may have mentioned it on other occasions also, but I did not take much notice of it. I have a recollection that he told me he had used some weed-killer that he had made himself one time. He pointed out where he had tried it. That would be since he came back from the war. The four tins purchased on the 4th of August were either purchased by myself or ordered by my wife; they were not purchased by Major Armstrong. They were put to Major Armstrong's account. Of the four tins of weed-killer I actually used three and a half. It would be the smallest half of the tin that was left in the tool box in the stable. I prefer putting down weed-killer in January to putting it down in very dry weather, because when you put it down in a long drought it does not soak in. I should not say there was anything extraordinary in an open winter in discussing weed-killer and putting it down in January.

Re-examined by the Attorney-General—If you are using weed-killer in January, you use it in a liquid form.

Oswald Norman Martin, examined by Mr. Micklethwait—I reside at Brecon Hill, Cusop. I am a solicitor in practice at Hay, and a member of the firm of Griffiths & Martin. I was admitted a solicitor in 1913. After the outbreak of war I enlisted in the London Scottish Regiment, and I served until August, 1918, when I was wounded. I was demobilised on the 11th of February, 1919. I got into touch with Mr. Robert Griffiths, who was a solicitor at Hay. He was an elderly gentleman, and in ill-health at the time. I had a three months' trial with him, and then I entered into partnership with him in July, 1919. Mr. Griffiths

died on the 11th of November, 1920, and I carried on the business by myself until I took Mr. Trevor Griffiths into partnership with me. Major Armstrong came back from the Army in the summer of 1919, I believe. I was introduced to him by my partner, Mr. Griffiths. I believe Major Armstrong called on me about two months after he came back. I went to his house and saw him and his wife. Except on that one occasion, he never extended any form of hospitality towards me until October, 1921. I was married in June, 1921, to Miss Davies, who was the daughter of Mr. Davies, a chemist at Hay. At the end of 1919 there was a big sale of an estate called the Velinewydd estate at Brecon. Mr. Armstrong acted as solicitor for the vendor. Under the contract with regard to the sale of this property, the completion, I believe, was fixed for the 2nd of February, 1920. In August, 1921, two of the purchasers came to me and instructed me with regard to seeing the matter through. In consequence of what they told me, I wrote to Major Armstrong on the 6th of August, 1921. That was over a year after the time when the completion ought to have taken place. The letter is exhibit No. 2. "We have been instructed by Mr. John Jones, of Brechfa, to act on his behalf in the purchase of the above farm for £1900. As you are aware, the late Mr. Lewis Jones was originally dealing with the matter on behalf of Mr. Jones, but Mr. Jones has now instructed us to take the matter up, and we have written to Mr. George Tudor accordingly. Will you please let us know, if possible by return, the exact position of this matter, and the reason why completion has been delayed for such an excessively long time." I wrote another letter on behalf of the other purchaser also on the 6th of August. I saw Major Armstrong several times after that. We discussed from time to time the position of affairs, and as to when completion should take place, and he kept on putting me off, and said he would be in a position to complete, he hoped, very soon, but nothing ever came of it. I then wrote him a letter on the 29th of September in which I said, "As there has been such a tremendous lot of delay in both these cases, we are instructed by our clients that, unless completion takes place on or before 20th of October next, they will rescind their respective contracts and demand the return of deposit in each case and damages." The deposits were paid to Major Armstrong, as the vendor's solicitor, and amounted to about £250 in each case, a total of £500. On the 12th of October I sent him the engrossment of the conveyances.

By Mr. Justice Darling—Completion never did take place. The deposits were never returned, and, as a matter of fact, negotiations are in progress still over both these matters.

Examination continued—I saw Major Armstrong a day or two before the 20th of October. I cannot remember exactly when it was, but I think it was about six days before the 20th. I asked him whether he would be ready, and he said he hoped he would,

but there might be something to prevent it. I believe there was some complication with the Yorkshire Penny Bank, who were mortgagees of this property, but he hoped to overcome it by the 20th of October. Completion did not take place on the 20th of October, and I got instructions from my clients, and wrote to Major Armstrong a letter on that evening. I spoke to Major Armstrong in the morning on the telephone and asked him whether he was ready to complete, and he said no, and I replied that I was afraid I should have to rescind, and he then asked me to give him another week. I spoke to my clients, who were there, and they instructed me that they would not wait a week, and that the matters were to be rescinded. I told him this, and he then asked if he might come over to my office and interview the two purchasers, to which I agreed, and he came over and pleaded with them to allow him another week to complete, but eventually they did not agree, and I sent those letters rescinding the contracts that night in both the cases. I saw Major Armstrong the following morning at my office, and he again asked me if my clients would agree to give a little more time to complete. I said I should be seeing them at Talgarth that morning, and I would see what they had to say. I did see them, and they definitely refused to give him any more time, and confirmed what I had done, namely, to rescind, and I informed Major Armstrong of that in the afternoon when I got back. That was the afternoon of the 21st. He appeared to me to be extremely agitated about it, especially on the 20th at the interview in my office. I could not understand his extreme agitation, as I did not see how it could affect him personally. He then asked me whether I would go to tea at Mayfield that afternoon. I said I was afraid I could not go that afternoon, and he then asked me for Saturday or Sunday, and we eventually arranged that I should go there on the Monday afternoon, the 24th. That was the second invitation I had had from him to tea, the first one being in 1919, when I first came. I did not actually go on the 24th, owing to some unforeseen circumstance, and it was arranged eventually that I should go on the following Wednesday, the 26th, and to be there at five o'clock. I have a motor car. I saw Major Armstrong in the morning and I offered to drive him up, but he said he had something to do at Mayfield, and he would be up there when I arrived, about ten minutes past five. I was in my usual health that day—quite good health. I had had lunch that day at my home with my wife about half-past one. When I arrived at Major Armstrong's house I met him in the drive. We went round the garden, and went into the house about twenty minutes or half-past five. We went into the drawing-room on the left as you go into the hall. There was a small table by the window laid for tea, and by it there was a three-tier cake stand—at least I think it had three tiers. After we went into the room the teapot and hot

water were brought in by the maid. I sat with my back to the window facing him. It was getting dusk at the time. Major Armstrong poured out a cup of tea and handed it to me, and he then handed me a scone in his fingers.

By Mr. Justice Darling—Before he did that he had handed you a cup of tea?—Yes.

Did he ask you what you would like to eat with it?—No, not so far as I remember; he may have done so, but I cannot remember that he said anything. He did say, "Excuse my fingers," or some remark of that sort when he handed it to me.

Examination continued—I do not know what he had to eat himself. The scone he gave me was a buttered scone. It was cut in two and buttered, and then the two halves joined together. I cannot remember whether it was a plain or currant scone. I ate the scone, and then I had some currant bread and butter. I do not remember having anything else. The bread and butter was handed to me on a bread and butter plate; it was put down at my side on a small table, I believe, and I helped myself. It was Major Armstrong who handed it to me. I think I ate all that. While I was there the rector of Cusop, Mr. Buchanan, called. Major Armstrong went out of the room and interviewed him somewhere else. I did not see Mr. Buchanan, but I heard his voice. The gas had been lit after we started tea, and about half-way through the tea one of the globes broke, and Major Armstrong got up and turned it out. That was before Mr. Buchanan came. During the tea we were talking of questions of office organisation, and that sort of thing. We were both very busy and rather overworked at the time, and we also discussed some question of the removal of a tenant that I wanted to bring forward.

By Mr. Justice Darling—Did you talk about the repayment of the deposits?—No, they were not mentioned.

Examination continued—Mr. Armstrong did not say anything to me to indicate the object of his asking me up. I left his house about half-past six.

The Court adjourned.

Fourth Day—Thursday, 6th April, 1922.

Oswald Norman Martin, recalled, further examined by Mr. Micklethwait—After I left Major Armstrong's house I went home. I arrived home about twenty minutes or a quarter to seven. I remember feeling slightly unwell when I got to the house. My clerk, Allan Preen, was there when I arrived, and I started to dictate some work to him until 7.30. I gradually began to feel more unwell, and when I went in to have my usual meal at 7.30 I said I thought I should not have any, as I felt sick. I had dinner, however, and we finished about 8.15. I then went on with my work, and I kept on feeling more unwell until about twenty minutes to nine, when I thought I was going to be sick and went up into the bathroom. Preen then went away. I was not actually sick when I went to the bathroom. I came downstairs again. I was actually sick for the first time about 9.10. I was sick about three times after that before I went to bed, and eventually I went to bed, and was sick at intervals throughout the night. It was exceedingly violent, and the vomit was very black. I noticed it was very dark at the beginning, and it was very offensive. The colour of the vomit got lighter as time went on. I also suffered from pain in the abdomen. In addition to the pain in my stomach, my heart was very bad and very fast indeed all the night and the next day. I also had two or three attacks of diarrhœa during the night. When it began to get light in the morning I noticed that my eyes were very sensitive to the light—I could not bear the light.

Dr. Hincks came to see me on Thursday morning, 27th October. He arrived about nine in the morning. He came to see me in the evening again, also the next day, and on Saturday, Sunday, and Monday. I went back to work the following Tuesday, 1st November. I only went back for about four hours. I never had a similar attack to that before. In consequence of what Dr. Hincks said to me I took a sample of my urine on the Sunday. It was put into a bottle. I identify the bottle produced as the bottle in question. It was Sunday, the 30th, four days after the tea, that I took that sample. I urinated direct into the bottle and then put it into the cupboard in my bedroom. I handed it to Dr. Hincks the following morning, on the Monday. I saw Major Armstrong on the Tuesday when I went back to work, and also on the Wednesday. I had to see him about several completions we had on the following day after I returned to my work. About a fortnight after I met him outside my office, and he then said, "It may seem a curious" —or "a cruel"—I cannot say which word it was—"thing to say, but you will have another attack soon." I said, "I hope

not," and I treated it as a joke. About a fortnight after I returned to the office I received another invitation to tea from Major Armstrong. It would be about the 14th of November. He persistently asked me to go to tea either at Mayfield or his office, until about the beginning of December. I believe the 7th of December was the last time he asked me to tea. I did not accept any of his invitations.

By Mr. Justice Darling—You say he persistently asked you. What do you mean by that exactly?—I mean he would ring me up in the morning and speak about business, and then at the end he would invariably say, "Will you come to tea with me this afternoon and we can discuss this?" I would make some excuse and say I could not go, and then he would ask me if I would go the next day.

Examination continued—With regard to the sales, I wrote a letter on the 6th of December asking for the return of the deposits. The deposits paid to the defendant have never been returned. The next invitation I got after that letter was, I believe, the next day, the 7th of December. I was unable to go. I was busy and could not go, and he rang up soon after five o'clock and said, "Are you coming over to tea, which has been waiting for you for over half an hour?" I think it was from his office he telephoned. I replied that he had not mentioned tea the previous day, and that I had had mine, but that I could go over at about a quarter to six and discuss the business with him. He said, "Oh, it did not matter, to-morrow would do, when I could have a cup of tea with him at the same time," which of course I refused again. By the letter of 6th December I threatened to issue a writ unless the deposits were paid by Monday, the 12th December. Nothing actually happened on the 12th as far as I remember. I think it was on the following day I was served with a writ by Major Armstrong against the two purchasers for whom I was acting for specific performance. I think it was on the 12th that he asked me to tea for the last time, and I said I was staying with Mr. and Mrs. Davies in Hay, and I had arranged to go to tea with them. He then asked me if I could put them off and go to tea with him. I replied that I was afraid I could not. I think I had about twenty invitations to tea altogether. Armstrong's house was about a quarter of a mile or half a mile from the town of Hay, and about three-quarters of a mile from my house. Subsequently I took my tea down to the office in order to have some ready excuse for not accepting his invitations. His office is just opposite mine, on the opposite side of the road. It would only have taken me a minute to go across. After I started having tea in my office Major Armstrong started having tea in his office, and he asked me over to tea at his office. I told him I was having tea at my office.

Oswald Norman Martin

Cross-examined by Sir H. Curtis Bennett—I was admitted as a solicitor in 1913, and I was a year in London and two years in Doncaster before I joined up in 1916. I was demobilised in February, 1919. I joined the firm of Griffiths in Hay in July, 1919. Mr. Griffiths, junior, had been articled to his father for about six months before he joined the Forces. He came back about the end of 1919, I should say, and took up his articles. The period of war service would count in his articles. His articles finished a very short time after he came back, but he continued to serve actually as an articled clerk, and then took his final a short time ago. He is now with me. In October or November last he became a partner, his father having died in November, 1920. So far as I know, Major Armstrong, who had been carrying on practice in Hay as a solicitor, was on quite friendly terms with Mr. Griffiths. Major Armstrong had a substantial practice in Hay, and he also held the position of clerk to the justices. I remember when he came back from war service, but I cannot remember the date. I am under the impression that it was about two months after he came back that he invited me up to tea with Mrs. Armstrong and himself. That was my first formal meeting with Mrs. Armstrong. I had met her informally before. I admit that Major Armstrong proposed me to be a member of the Hereford Law Society, but that was merely a matter of form. I also became a commissioner for oaths. He signed my papers. It was a great convenience to him to have a commissioner in the town. I remember going to the County Club at Hereford in the autumn of 1920 with Major Armstrong to luncheon.

Am I right in saying that from time to time you have received acts of kindness from Major Armstrong?—You can put it that way if you wish.

No; I ask you?—It depends on what you call acts of kindness. I do not think I ever asked Major Armstrong after my marriage, except at the first "At Home" I had, to come to my house. During the life time of Mrs. Armstrong I did not show the slightest hospitality to her. As far as I know, Major Armstrong was a stranger to Miss Davies until she became my wife. When I went on my honeymoon Major Armstrong offered to do anything to assist me in my absence. It was a matter of courtesy; I offered to do the same for him when he went away to Italy.

Am I right in saying that up to October the position between you was that you were perfectly friendly?—One would wish to be courteous.

Did you dislike Major Armstrong before October, 1921?—No, I did not dislike him. At the same time as there was this matter in existence about this estate, there were other business matters I had going on with Major Armstrong. My relations with Major Armstrong in all other business affairs were quite friendly.

Evidence for Prosecution.

Oswald Norman Martin

Between the 26th of October and the 10th of December I did not take any actual action to rescind the contract. Any action came from Major Armstrong on behalf of his client by issuing two writs against my clients to carry out the contract. About the 26th of October I was in the habit of going up to tea to my own house, but I afterwards began to take my tea in the office. I did that to have a ready excuse at hand for not going to tea with Major Armstrong. Major Armstrong had been in the habit of going home for his tea, and in November he began to have his tea in the office the same as I did. That was after I commenced having tea in my office. When I went up to tea at my own house I had to pass Mayfield. Major Armstrong's house would be about half a mile from the middle of Hay. My house would be about another quarter of a mile on. I was in the habit of going to and from my office in my car. I admit I was taking very little exercise at that time. I was very busy. I remember Major Armstrong saying once or twice that I ought to be careful, otherwise I would be ill if I did not take more exercise. Major Armstrong did not say to me on the day that he asked me to tea that he wanted to discuss business affairs with me while we were at tea, but I partly accounted for the fact that he asked me to tea to his wanting to discuss the Velinewydd business. Upon the day that I went to have tea with Major Armstrong I saw him in the morning, and I told him that I could give him a lift, but he said that he had to go up earlier, as he had something to do in the house. He said he would be there when I came. When I arrived that afternoon we had a walk round the grounds, and then we entered the room on the left-hand side directly you enter the hall. I arrived there about ten minutes past five. It may have been a little later. I sat upon the left-hand side of the bay window as you go into the room. I had my back to the light, facing Major Armstrong, and he had the light in his face. In between us there was a small table with the tea things on it. The three-tier stand was on Major Armstrong's left, near the table. I am absolutely certain that Major Armstrong handed me a scone in his fingers. The only time he handed me a plate was when he handed me a plate with currant bread and butter on it, and that was after he handed me the scone. When he handed me the scone he said, "Excuse my fingers," or "Excuse me." We were both busy at that time, and we discussed the question of working at high pressure, but we did not discuss any other matters in particular. After tea I smoked a cigarette. I had not got my pipe with me. I do not remember saying that I was off colour, and that was why I would rather smoke a cigarette. I was not feeling off colour, but I was feeling stale. There was no question of my feeling ill. When I left Major Armstrong that night I was still feeling stale, but not ill. I do not recollect having any discussion with Major Armstrong that night about my not taking

enough exercise, but I know that on one or two occasions Major Armstrong did speak to me about that. I never had any gastric attacks in my life before my visit to Major Armstrong's house. I have never had any gastric influenza. I have no idea what it is like. I had dinner that night about half-past seven. As I have already said, I did not want to have any dinner at first, as I felt sick, but I latterly did take some dinner. It consisted of some hot dish. I also recollect that I had some coffee cream. I cannot remember whether it was stewed rabbit that we had that night. It was soon after nine that I first felt sick—perhaps about ten minutes past nine. I vomited then. While I was ill—I believe it was the day after I turned ill—Major Armstrong took a sale by auction for me. He also called twice to inquire how I was. I remember telling Major Armstrong after I was better that I thought it was due to overwork. I was trying to account for it. I could not think of anything else that would have caused it.

Was it not on one of those occasions when he was chaffing you about riding too much in your car, and saying that you would be better if you took more exercise, that he said, "If you don't take more exercise you will soon have another attack," or words to that effect?—No, it was not. I agree I may have said to him that it was probably overwork and not taking enough exercise, but I cannot remember his saying, "If you do not take more exercise you will probably have another attack." It was one morning outside my office when he met me that he said, "It may be a curious (or cruel) thing to say, but you will have another of these attacks soon."

Neither in examination-in-chief nor in cross-examination at the Police Court did you use that word "cruel." You remember it so well; when was it you remembered that bit of it?—I cannot tell you the exact point of time when I started to think of it, but I particularly remember this particular statement.

How is it that until to-day, although you were asked about this over and over again at the Police Court, you had forgotten that word "cruel"? Was "cruel" said or not?—I have just said that I am not sure whether is was "curious" or "cruel." I treated the matter as a joke then. I cannot give the date within a month when he said that, but it was two or three weeks after I was back at my office. Both Major Armstrong and I had fairly good libraries, and up to that time we continued the ordinary friendly relationship of two solicitors in a town, borrowing each other's books, and so on. It is the case that on the 28th of December, the last Wednesday in the year, Major Armstrong came to my office and asked me if Mrs. Martin and I would dine with them on the following Friday. He also stated that he would get another gentleman to come to make a fourth at bridge, or something of that sort. I subsequently saw Major Armstrong on

the Friday, when there was some discussion as to a date in the future being fixed for this dinner, but the date was never fixed.

Re-examined by the ATTORNEY-GENERAL—There was no one else but my wife at lunch with me when I was at home on the 26th of October, but the maid had her lunch from the same dish. My wife had the same food as I had. No one else in the house except myself had any gastric attack. I had never at any time in my life had such an attack.

CONSTANCE MURIEL MARTIN, examined by Mr. VACHELL—I am the wife of Mr. Oswald Martin, the previous witness, and the daughter of Mr. Davies, who carries on business at Hay, in Brecon, as a chemist. I was married to Mr. Martin on 14th June, 1921. I thereupon went to live with my husband at a little villa at Cusop. I only knew Major Armstrong very slightly. On the occasion of our wedding we had an "At Home," at which Major Armstrong was present. The other occasion when he was at our house was when my husband was ill. My husband enjoyed quite good health during our married life up to the time of his illness. On the 26th October he had his mid-day meal with me. I cannot remember exactly what we had for lunch, but whatever it was I partook of it to the same extent as my husband. The maid would have the same dishes for her mid-day meal as we had. Neither the maid nor I suffered any inconvenience or illness after that meal. My husband went off to his office again about two o'clock. He went direct from his office to Major Armstrong's house for tea. I next saw my husband about seven o'clock that night. I did not notice anything in his condition at that time. My attention was first drawn to the fact that he was unwell when we went in to our evening meal about half-past seven. He told me then he was feeling sick, and I thought he looked a little pale. We had jugged rabbit and coffee custard afterwards for dinner. We both partook of that meal, but my husband's appetite was not very good. He did not eat very much. After dinner he went back and started at his work with his clerk. He seemed very restless. I thought he was simply tired, and I did not take much notice. Finally he said he could not do any more, and he rushed out of the room suddenly and went upstairs. I think I followed him then, because I wanted to know if he wished to get rid of the clerk. I found him upstairs. He said he was not feeling well. He was in the bathroom, waiting to be sick. I did not see whether he brought up anything or not at that time. After that he came downstairs. He was not very long downstairs when he ran upstairs again, and I followed him. He went into the bathroom. I did not see him actually being sick, but I could hear him. After the second rush upstairs he came down again, and I observed that he was very pale and did not seem at all comfortable. I told him he had better go to his bed. I brought his things downstairs, and he undressed before

the fire before going to bed. He was sick again before he went to bed; he was vomiting. During the night he vomited incessantly. He did not seem in great pain, but I think he must have been in pain. I was a V.A.D. nurse during the war. I noticed that the vomit was rather dark in colour, but that was not until after he had been sick a great many times. I did not see the first vomits. I also noticed an objectionable smell about the room when he was vomiting. I did not actually feel his pulse, but he called my attention to his heart action. I found it was going very, very rapidly—a sort of palpitation. I then gave him hot water to drink. That did not seem to stop the vomiting, so I got some whisky, as I had not any brandy, and he had whisky and water. Then he had neat whisky, and after that at intervals I gave him some Bovril. He was in bed at that time. He was also very cold and shivery. I gave him extra covering and got a hot-water bottle. In the morning Dr. Hincks came and saw him. He attended him on several occasions afterwards. I did not myself suffer any of these symptoms after dinner that day. I was perfectly well. I do not think the maid suffered from any such symptoms after that dinner either. The last attack my husband had was on the Thursday afternoon, about eight o'clock in the evening, I think. That was the day after he had been to tea with Major Armstrong. He was sick all through the night and the following day at intervals, the intervals becoming longer and longer. The last occasion that I remember was, as I have stated, about eight o'clock that night. After that he began to get better. On the Friday morning Major Armstrong called. I had not communicated with Major Armstrong before the 28th. He undertook a sale for my husband. He offered to do anything he could for him. I told him how my husband was.

Cross-examined by Sir H. Curtis Bennett—It was not until dinner time that I noticed anything wrong with my husband. I then noticed that his appetite was not as good as usual during dinner. He did not seem to want to eat anything. He did in fact eat some of the jugged rabbit, and also coffee custard. The dinner was over at approximately eight o'clock. He then went back to his dictation. That went on until about a quarter to nine. Dr. Hincks came on the Thursday morning. He sent a bottle of medicine and some tabloids round after he had visited my husband. My husband took the tabloids every hour on the Thursday, also the medicine. The next day he was given another prescription. He may have had two bottles of both the mixtures. The third mixture my husband got was a white mixture. It had been prepared by Dr. Hincks himself.

Una Mary Baker, examined by Mr. Micklethwait—I reside at 19 Castle Street, Hay, and I am a single woman. I was in

Major Armstrong's employment for some two years. In November I took up my duties in the office next to the one in which he was working. I had tea in the office in the latter part of November. It was about the same time as I started there. The reason why we had tea in the office was that we had an oil stove which made the air dry, and I suggested having a kettle. I myself made the tea in the office rather more than half a dozen times. Major Armstrong provided the tea and sugar. He also brought butter down to the office from Mayfield, but it was never used, because he usually had biscuits. The butter was left in the office for some time until the caretaker used it. I remember hearing Major Armstrong ask Mr. Martin to tea on three occasions. It was over the 'phone that he asked him. On any occasion when Mr. Martin was invited to tea we were told to get provisions from the café next door.

By Mr. Justice Darling—What did he tell you to get?—Buttered scones.

Examination resumed—I think I got buttered scones on one occasion, and I think his clerk got them on another. Mr. Martin did not come to tea on any of these occasions. I think his clerk, who is a girl, had part of them, and the remainder, I think, were left in the office, and probably taken away by the caretaker. When they came from the café they were cut across and buttered. I remember Mrs. Armstrong's death. Before that time I had never seen a will of hers. I saw the will that was proved when they got probate for it. I never saw any earlier will of Mrs. Armstrong.

Cross-examined by Sir H. Curtis Bennett—Anything that was done in connection with the will of Mrs. Armstrong was done quite openly in the office. There was no attempt to conceal anything. The will was sworn before Mr. Martin as commissioner. At the Police Court examination I stated that Mr. Armstrong provided the tea and sugar, and that Miss Pearce brought more butter down, but that it was not used. That was my recollection at the time. I was not quite sure whether Miss Pearce brought it down or whether Major Armstrong brought it himself. I am quite sure that the buttered scones or buns came all ready buttered from the café. They were purchased when Mr. Martin was thought to be coming to tea. There was no secret about asking Mr. Martin to tea. It was quite openly done on the three occasions I have referred to. It is not an unusual thing to have tea in the office, especially if ladies are employed there. It is quite true, as I stated at the Police Court, that prior to my making tea in the office Major Armstrong on various occasions had tea sent in. On those occasions he frequently had buttered scones.

Re-examined by the Attorney-General—When was that?—When he was working late.

Una Mary Baker

Before you started making tea had the clerks ever had tea in the office?—No.

ALLAN PREEN, examined by Mr. MICKLETHWAIT—I am a clerk in the employment of Mr. Martin, of Hay. I remember going to his house on the 26th October about 6.30 or twenty minutes to seven. Mr. Martin had just arrived when I got there. He commenced dictating to me till about 7.30. He seemed worried, irritable, and fidgety, and he looked bad. About 7.30 he went away and came back in about half an hour. He then went on for a bit longer dictating to me. After about half an hour he left the room suddenly. I saw Mr. Martin again on the Wednesday night, but I did not see him after that until the Friday. I saw Major Armstrong on the Thursday morning at the office about a quarter to ten. I opened the office at 9.30. That was the day after the tea. I told Major Armstrong that Mr. Martin had not yet come to the office. He just went away then. I saw Major Armstrong again about a quarter to eleven, and he asked me when he could see Mr. Martin. By that time I had received a telephone message, and I told Major Armstrong that Mr. Martin was bad. He said he was sorry, or words to that effect. I again saw him about a quarter to twelve. He came across to hear about Mr. Martin, and he also asked about the sale.

Cross-examined by Sir H. CURTIS BENNETT—It would be about a quarter to ten on the 27th October that Major Armstrong called at Mr. Martin's office. He just asked to see Mr. Martin. He was told that Mr. Martin had not yet come in.

There was nothing extraordinary in that, was there, because they were both visiting each other's offices two or three times a day?—Yes, but he did not usually come so early as that, because Mr. Martin did not usually arrive until about ten.

Except that he did not arrive until about ten, there was nothing extraordinary in his visiting the office?—No. On being told that Mr. Martin had not yet arrived Major Armstrong went away. He came back about a quarter to eleven. He was then told that Mr. Martin was bad. He said something to the effect that he was sorry. He did not say anything about Mr. Martin not taking enough exercise that I remember of on that occasion, but on the Friday he said that in his opinion Mr. Martin did not take enough exercise. When Major Armstrong came across the second time he was asked if he would take a sale in the afternoon. As a matter of fact, he did conduct that sale for Mr. Martin. He also mentioned that day that Mr. Martin had been to his house the night before, and that he seemed quite well. I remember stating in my Police Court examination that Major Armstrong also said he thought Mr. Martin looked bad when he was at his house after tea. He did not, however, say that Mr. Martin was actually sick. He then went on to state that he thought Mr. Martin was not

taking enough exercise. Just at that time there were pressing business matters going on between Major Armstrong and Mr. Martin. The completion of the Clifford estate was fixed for the 2nd November, the day following.

Dr. Thomas Ernest Hincks, examined by the Attorney-General—I am a Bachelor of Medicine and a Bachelor of Surgery of Edinburgh. I am in practice at 13 Broad Street, Hay, and I have been in practice in Hay since 1898. I have attended Mr. and Mrs. Armstrong for a period of years. I remember attending Mrs. Armstrong in May, 1919. Up to that time I had not been asked to see her, but I had seen Major Armstrong. Major Armstrong was a patient on my books. It was on 13th May, 1919, that I attended Mrs. Armstrong for the first time. She had consulted me in my surgery about a pain in her right arm. I went carefully into her history, and formed the opinion at the time that she was suffering from brachial neuritis. I have an entry in my books that I gave her aspirin tabloids and Fellowes syrup of hypophosphites. I examined her arm very carefully. There was no wasting of any muscles. There was pain down the arm, and particularly in the region of the shoulder joint. She also complained of pain in the forearm going down to the fingers, and of tingling in the fingers—a numbed sensation. I suggested to her that she should keep her arm at rest and carry it in a sling. The next time I saw her was on the 19th May, when she again came to my surgery. She was complaining of the same condition, the same arm. I examined the arm again, and repeated the medicine she was having. I did not notice any change in the condition of the arm. I again saw her on the 24th June. On that occasion she complained of definite pain in the wrist joint of the same arm. I examined it, and I came to the conclusion that it was still neuritis, but more definite—of rheumatic origin. On that occasion I altered my prescription, and I gave her appropriate remedies for rheumatism. The next time I saw her was on the 2nd July. She was in much the same condition, and I repeated her medicine again, the same as I had given her on the 24th June. I examined her again. On the 24th of June, when she came to me, there was some swelling in the wrist. On the 14th July she consulted me in the surgery, and I then prescribed an alkaline mixture with a tonic. She was evidently improving at that time from her rheumatism.

But was it for the same arm that she consulted you?—She came about her general condition.

By Mr. Justice Darling—Her condition had improved?—I considered that it had.

Examination continued—On the 23rd July she again consulted me in my surgery. It was for the same thing. I did not prescribe any particular medicine, because I thought she was very

much better. On the 9th August I visited her at her house—either her or the children. I have notes of visits to the house on the 9th August, 16th August, and 27th August. On the 27th August I only called in passing; I did not put in a special visit. I cannot remember what that was for. Up to that time I had been treating her for rheumatism; she gave me a history of having had rheumatism previously. Her physical condition at that time was good. I examined her heart. She had no evidence at that time of any heart disease. From August, 1919, right down to August, 1920, I did not see her professionally. On the 1st August, 1920, I was called for in the evening to go and see Eleanor Armstrong, one of the children. Mrs. Armstrong was present on that occasion. I had some conversation with her. I cannot remember anything being wrong with Mrs. Armstrong at that time. The child had a speck in its eye, which I removed. I believe I am right in saying that Mrs. Armstrong attended to it and bathed the eye. So far as I noticed she was able to converse with me rationally at that time. On the 15th August, 1920, I saw Major Armstrong. He asked me if I would give him a sleeping draught for his wife, as she was restless and unable to sleep at night. I asked if he wished me to go up and see her, and he said no, there was no need. I gave him a draught, which consisted of bromide and chlorine. There would be about half a dozen dozes in the bottle I gave him. I did not go to see her that day. I have no entry in my books until the 22nd, but to the best of my recollection I saw her twice; once, I believe, on a Wednesday, and once on a Saturday night. I believe that would be Wednesday, 18th, and Saturday, 21st. I came back from Birmingham that day; that is how I recollect it. When I saw her on these occasions she was suffering from delusions. I visited her in regard to her mental condition. I examined her heart. I believe I would do that on the Wednesday or Thursday. I have no notes of this. There are no entries in my book at all of having visited her that week, but I have a recollection that I did so. When I examined her heart on that occasion I found she had a mitral systolic murmur. That means that there is something wrong with one of the valves of the heart, which might arise from various causes. I cannot say whether I examined her urine on that day or not, but I would probably ask for a specimen of her urine. I know that I examined her urine before she went to the asylum. I found that there was albumen present in it. That indicates that there is some disturbance of the function of the kidney. At that time there was organic disease of the heart and kidney, in my opinion. I did not at that time form any opinion of what the cause was. Her mental condition was the real thing I was called in about. I should describe her speech as being incoherent.

On Sunday, 22nd, I again visited her in the morning, but I do not think I examined her particularly in the early morning,

although I believe Dr. Jayne did. I saw her again about mid-day. I met Dr. Jayne in consultation there. That was somewhere about twelve o'clock mid-day. We both examined her separately. I was told that she had been vomiting. Dr. Jayne was called in for the purpose of being the second doctor necessary to sign a certificate. He did not make any examination of her physical condition, as compared with her mental condition, any further than to certify that she was fit to travel. I examined her heart again when I returned in the afternoon about three o'clock. Dr. Jayne and I signed a certificate at the mid-day visit, when it was decided to send her to Barnwood. That is a private asylum. I actually went to the asylum with her. When I left after the mid-day visit I had arrangements to make about a car and driver, and I returned to Mayfield later after I had made arrangements, about three o'clock. I saw her again. I noticed that her general condition had changed for the worse. The first thing I noticed was the colour of her face; she was cyanosed. She was blue about the lips, and had a sallow complexion; she was sallow and pallid in appearance. I examined her and found her with a rapid pulse—a pulse of 120. A normal pulse would be about 80. I was told she had been vomiting, and she retched when I was present. She complained of pain in the stomach. These symptoms occasioned anxiety to me. I hesitated a great deal whether it was safe to remove her; she seemed to be extremely ill. I inquired about her history, and was told she was very subject to these bilious attacks. I cannot remember at the moment whether it was Major Armstrong who told me that she was subject to bilious attacks, but it would not have been anybody else. It would be either Major Armstrong or Mrs. Armstrong.

You were told by one or other of them that she suffered from bilious attacks?—I recollect now she told me herself that this was one of her bilious attacks. That was after I had certified her as suffering from delusions. Both Dr. Jayne and I certified her. The original certificate states—"I, the undersigned, Thomas Ernest Hincks, a person registered," and so on, "examined her separately from any other practitioner. She informed me that she was a disgrace to her family, had wrecked her husband's life, had been a bad mother to her children. These, to my certain knowledge, are untrue delusions. There is a difficulty in getting her to answer questions coherently. Her husband states that on the 14th she told him that she would leave home because a warrant was out for her arrest." The other certificate says she was nervous and uncertain in her answers, sometimes not answering questions at all. She had delusions as to her own condition and behaviour, stating that she lived an un-Christian life, had been unkind to her children, and had defrauded tradespeople. "From facts communicated by husband, delusions developed in the past week. She is being watched. Says she has defrauded trades-

men, and is liable to arrest. Every one is out to trap her." Then the statement of the prisoner is this—"She is careful but anxious, always temperate and industrious. She is a total abstainer. Had she at any time had serious disappointment?—General strain in family care and household management during and since the war. No relations are insane. Has she manifested any symptoms of insanity?—Sleeplessness for ten days, nervous excitement, slight irritability for some months past. What circumstances are supposed to cause disorder?—Change of period of life. Delusions that she is being followed about, has neglected family and husband, and is liable to arrest. Has patient shown violence towards herself or others?—No signs of violence; on the contrary, apathy to surroundings and acute introspection. Has she refused food at any time?—The day prior to reception, 21st or 22nd. Health generally good, but of liver tendency. Has she been under medical treatment?—Dr. T. Hincks, of Hay. Up to what time has she continued her ordinary employment?—Day before her reception."

By Mr. Justice Darling—Of what was she certified?—Of unsound mind.

Examination continued—I went with her to the asylum in the car. I took a basin in the car. Miss Friend accompanied us in the car. There was the driver and myself in front, and Miss Friend and Major Armstrong and his wife inside the car. When we got to the asylum Dr. Townsend and myself examined Mrs. Armstrong after she had been put to bed. We went carefully over her symptoms. We examined her heart, and we discussed the condition. There was also a lady doctor, Dr. Smith, present. A specimen of her urine was examined, and was found to contain albumen. Her pulse was rapid. She was in an exhausted condition. The nurse drew off the urine with a catheter. I think we agreed that there was a systolic murmur of the heart. The apex-beat was outside the nipple line, that is to say, it had some degree of dilatation. It was displaced—with dilation in one of the chambers of the heart.

By Mr. Justice Darling—That caused the murmur?—I did not know then, but in the light of what I know now from the autopsy I think that that was the cause of the murmur.

Examination continued—We examined her thoroughly. The cyanosed condition was very marked round the lips. That indicates a failure of circulation. The skin of her abdomen was sallow.

By Mr. Justice Darling—Having regard to what you know now, is that an important matter?—It is an important matter.

Examination continued—I would describe her mental condition at that time as melancholia, with delusions. The only cause to which I could attribute the melancholia at that time was her age, associated with change of life. At that time I had not in

mind any question of toxæmia or toxic action of any sort or kind. I left her in the care of Dr. Townsend, and drove back with Major Armstrong and Miss Friend. I do not think I visited Mrs. Armstrong at Barnwood at all. In January, just before the 11th, I saw Major Armstrong, and in consequence of what he said to me I wrote a letter on the 14th January to Dr. Townsend as follows:—"Dear Dr. Townsend—Glad to hear that Mrs. Armstrong is improving mentally and physically. From what Major Armstrong tells me she appears to have lost her delusions and to be normal mentally." It was Major Armstrong who told me that she had lost her delusions. I wrote that, I believe, in his presence, in my surgery. Major Armstrong came to my consulting room to see me on this subject. I received the following reply, dated 13th January:—"Dear Dr. Hincks—Mrs. Armstrong has improved both mentally and physically, and Major Armstrong is now desirous of having her home. In my opinion, she is not yet well mentally. She is constantly making accusations against herself of having misspent her life and failed in her duty towards her husband and her children, and she says she has been guilty of selfishness, so you see her delusions have not gone. Her great anxiety is to return home, and so under the circumstances I think it will be well to get from the Committee on Monday next a leave of absence on trial for three months, and during that time it is possible that with the change to home she may return to her normal mental state, and, on the other hand, should she relapse and become impossible, she can return to Barnwood without recertification. We consider that the paralysis of feet, arms, and legs was entirely functional. It is very much better, but not yet quite well." On receipt of that letter I communicated with Major Armstrong. I remember that he took exception to the suggestion of letting her out for three months on leave. I cannot say that I advised him either way.

By Mr. Justice Darling—I believe he said that his idea was that it would retard her complete recovery.

Examination resumed—I then wrote on the 14th January (exhibit No. 18)—"Dear Dr. Townsend—Many thanks for form of application for release on leave." I do not remember whether in the letter to me a form of application for release on leave was enclosed. I know that Mrs. Armstrong returned home on the 22nd January. I saw her on the 25th January at Mayfield. I did not visit her professionally that day. I promised to call in the evening to do a little operation for Miss Pearce, and Mrs. Armstrong was present and I saw her then. She was in the drawing-room when I went into the house. I naturally felt a little uncomfortable the first time I met her after coming away from the asylum, because I knew she resented my having sent her there, and I was a little anxious as to how she would receive me. However, she came forward and shook

hands with me, and she said, "Good afternoon" or "Good evening." I replied I hoped she had completely recovered. She said she thought she had. I noticed nothing wrong with her that day. On the 30th January I saw her again at Major Armstrong's request. I visited her on that occasion as a doctor visiting a patient. Her mental condition was very much improved at that time. Her physical condition was also good. I found really nothing wrong with her. I cannot remember whether I listened to her heart on that occasion or not, but probably I did. I have got no note of it, but at any rate she complained of nothing. There was no physical disablement that she complained of at that time or that I observed. Major Armstrong had asked me to keep her under observation. I again saw her on the 6th February, and also on the 11th. I believe that it was on the 11th that I saw her in the drawing-room, and she complained to me of the return of those curious feelings in her feet. She described them as springs pressing her up from the ground. I recollected this letter that I had had from Dr. Townsend in which he spoke of the previous condition as being functional, so I tried to persuade her that she could walk. I took her arm and tried to get her to walk naturally round the drawing-room. She was unable to do so.

By Mr. Justice Darling—Even with my holding her arm and guiding her along she could not walk along on that day without assistance.

Examination continued—She said she felt she had got a return of the feeling of springs under her feet. I am referring to the nervous condition which I had heard of when she was in the asylum, but which I had not seen for myself. I was told about that in the letter of 13th January (exhibit 26), in which Dr. Townsend said, "We consider that the paralysis of feet, arms, and legs was entirely functional. It is very much better, but not yet quite well." That means there was no organic disease of the nervous system. On this day when I saw her, on the 16th, I doubted the correctness of that diagnosis. If there is organic disease, something like wasting of nerves or something of that sort, you would not be able to walk. If it is only functional, if you really try you can walk. You imagine you cannot walk. If she had hysteria that would explain why she did not walk—because she thought she could not walk. I tried to walk with her round the drawing-room.

You told us you found you could not do it. What sort of gait had she?—What made me pay special attention to her nervous system was that she had a very peculiar gait, namely, the high-steppage gait. She would raise her foot from the ground and hesitate a long time before she would bring it down again, and then bring it down with a bang.

By Mr. Justice Darling—Locomotor ataxia is not exactly like that, but it is something like it.

Evidence for Prosecution.

Dr Thomas E. Hincks

Examination continued—I cannot say that I noticed the appearance of her face and skin on the 11th February. I was familiar with this high-steppage gait as being a symptom of organic disease. I endeavoured to take Mrs. Armstrong upstairs, but found she could not walk. The nurse was there, so I told the nurse to get her to bed, and I helped her upstairs to bed. The nurse undressed her and put her to bed, and I examined her in bed. I examined her nervous system very carefully. I tested her knee jerks. The knee jerks were totally absent. Absence of knee jerks occurs in some diseases, notably locomotor ataxia. I also examined her ankle, and found there was no ankle clonus. That is a tendon reflex of the ankle joint, a continuous contraction of the muscles of the leg which keeps the ankles working backwards and forwards if you suddenly jerk them. As I have already said, there was no ankle clonus, and that is a symptom which one must take notice of. I also noticed the grip of her hand. It was diminished. She told me she was unable to use her fingers for knitting or playing the piano. It was not total inability; it was difficulty in using them. She had that in both hands. I cannot say whether it was on that occasion or not, but on one occasion I got her to pick up a penholder, and she had great difficulty in doing it. I remember the abdominal reflex was present, but I cannot say about the others. This examination was for the purpose of ascertaining her mental condition. At that time I think her muscles were well nourished; I noticed nothing particular about them. When I left her on the 11th February I left her in bed. I did not prescribe anything for her. She could move her legs freely from the bed to the ground, or from the ground to the bed, at that time, but she had a difficulty in raising her heel when she was lying flat on her back. I did not form any conclusive opinion about her on that occasion. I went into her nervous system, because it raised a question in my mind as to the accuracy of this previous diagnosis. At the same time I had not formed any definite opinion as to the diagnosis.

The next time I visited her was on Wednesday, 16th February. I was telephoned for on that occasion, but I cannot tell by whom. When I arrived she was in bed. I was told she had been vomiting. She complained of pain over the abdomen. I examined the abdomen. It was intensely painful to pressure; she would not allow you to exert more than the slightest pressure over the abdomen. There was no distention of the abdomen; it was rather retracted. The meaning of that is that there was no, what we call, acute abdominal condition in the sense of appendicitis or peritonitis. I percussed the liver; I examined the liver. There was no enlargement of the liver and no sign of any definite organic disease in the stomach. I examined her heart, and there was a systolic mitral murmur there. The action of the heart was rapid, and the apex-beat, the most important impulse, was outside what

we call the nipple line; that is to say, it was displaced outwards. That indicates dilation of the heart. Her pulse was 120. She looked very seriously ill. She had an anxious expression on her face, her lips were cyanosed, blue, and it was about now that I began to notice, I can recollect, the discoloration of the skin, but it got more marked in the latter days. There was some discoloration of the face and abdomen when she went into the asylum first of all, which I did not pay very much attention to at the time, but I noticed it again on this occasion. It was worse than when she came back from the asylum. She never had very good colour, what I should call a good healthy colour. Her colour on that occasion in February was about equal to what it was when she went into the asylum, but towards the latter end of her illness it assumed a much deeper bronze or copper colour. I do not know whether it was on that day, but in the course of her last illness I did examine her urine. I found that there was albumen in her urine. I cannot remember whether I examined her vomit at this time. I do not remember whether she was suffering from diarrhœa or not. I made up a bottle of medicine for her on the 16th. It consisted of 4 drams bicarbonate of potash, 3 of tincture of oranges, and 1 of spirits of chloroform, water to 6 ounces. "One tablespoonful to be taken in water with half-teaspoonful of lime juice until the vomiting ceases." I find that prescription very useful in certain forms of bilious vomiting. Up till that time since her return from the asylum I saw no delusions or any sign of the return of her mental trouble at all. During that time after she came back from the asylum her great anxiety was to get better. I was never worried with regard to any question of suicidal tendencies during the time I was in attendance on her. I do not recollect anything being said to me about it being wise to put Major Armstrong's razors out of her reach, and nothing was said to me about her having spoken of throwing herself out of the window that I can remember. I had not the slightest misgivings about her at that time, otherwise I should never have consented to a nurse visiting her night and morning.

By Mr. Justice Darling—From anything she said to you, or from anything said to you by anybody else, or anything you noticed, did you suspect her of a desire to take her life?—I did not.

Examination continued—I visited her again on the 17th at 3 p.m., and again at 10.30 p.m. She was in great pain, and in the evening I gave her a hypodermic injection of morphia, a $\frac{1}{4}$ of a grain of morphia and 1/20th of atrophine. That was to help her to sleep, and also to relieve the acute abdominal pain she was suffering from. She was very acutely ill, and vomiting everything that you attempted to give her. My impression is that she kept no food down after she was first taken ill with this acute gastric attack. I visited her every day after that up to the

22nd. On the 18th her condition was worse; she was gradually getting worse day by day. She was getting weaker, and she lost tremendously those last few days; she got very thin. Her lips and tongue were brown and dry. There was furring of the tongue, and sordes began collecting around her mouth. That is dead epithelium which peels off the tongue and lips and collects in the mouth, but mainly a secretion of the mouth mucus with this form of case. The epithelium is the skin over the tongue, a superficial layer of skin. It accumulates in the mouth and round the tongue and round the throat. It usually rises in the course of any serious illness, especially before a fatal termination. I saw her again on the 19th. I believe that was the day she complained of a lot of flatulency. I gave her some tabloids. I do not believe she ever took them, because she was taking no medicine at all. The tabloids were beta-naphthol and charcoal. That is a thing I use a good deal of. I also on that day told the nurse to give her an enema, and I lent her the syphon to do it with. She was constantly in pain, every day, at that time. The pain was in the abdomen. I saw her again on the 20th. She was gradually getting worse; she was getting weaker and weaker. She was not able to retain any food then. She was getting frightfully wasted, and I ordered some nutrient suppositories on the 21st. The nutrient suppositories are concentrated nourishment made up in the form of suppositories, so that they may be used by the rectum instead of by the mouth. So far as I know, from the 16th or the 17th she had not been able to take any food by the mouth. I saw the nurse's report every day.

By Mr. Justice Darling—Did Nurse Allen keep a proper report?—She kept a proper report, which I saw from day to day.

Examination continued—As far as I am aware, Mrs. Armstrong could swallow then all right, but she was vomiting all the time—persistent vomiting. I made a communication to Major Armstrong, I think before the 21st, that I did not think I would be able to pull her through. I told him, I think, on the Friday there was nothing to be done for her, and that she would die. I believe I also called to see her on the morning of the 22nd, but I have no entry of it.

By Mr. Justice Darling—Do you remember what time it was?—I was out all night, and when I got back I found a telephone message waiting which had come in some time during the morning, and I went straight up when I came in. I could not say exactly when it was, but it was somewhere before ten o'clock. She was unconscious. It would be, I think, about nine o'clock when I saw her.

Examination continued—Major Armstrong was in the room with me when I saw her. I told him what I expected would happen. I said she would not regain consciousness, she might last the day out,

but I could not tell. Later in the day I had a message from Major Armstrong to say that she was dead. It was in the course of the morning, but I cannot say what time it was. I gave a certificate.

Whilst I was visiting her from the 16th every day onwards to the 22nd her physical condition was such that she was not able to get out of bed. Certainly after the 18th she never left her bed for any purpose at all. The nurse, of course, can give better evidence on that point than I can, but from my knowledge of her condition I should say it was impossible for her to leave her bed certainly from the 18th onwards for any purpose whatever. I do not think she could move her legs at all during the last four days. On the 11th when I saw her, and went very carefully into the use of her legs, she had a lot of weakness in them, and I should say for the last four days they were useless. As regards her arms, I remember she had difficulty in feeding herself at the beginning of her illness; she could not convey a cup to her lips. That would be about the 16th or 17th, I should say—the beginning of her acute illness. I certainly do not think she could have fed herself at all during the last four days of her life. That condition is known as paresis. She may have been propped up in bed during those four days, but she could not lift herself up. The certificate that I gave was to the effect that death was due to heart disease, and the period I gave for it was twelve months; nephritis, six months; and gastritis, twenty-one days. She had not been actually under my observation the whole twelve months, but she had been under my actual observation since August, 1920. When I found the condition of her heart in August, 1920, I formed the opinion that she had had this heart disease probably six months before I saw her.

And six months before August, 1920, would bring us to about February, and so you put heart disease for twelve months?—Yes; these certificates are never very accurate.

This certificate was to give the cause of death; it was not a disquisition to a learned society?—No, it is to give the general cause, as near as you can tell. You do not certify; you say to the best of your knowledge and belief.

Nephritis is inflammation of the kidneys, Bright's disease. Albumen in the urine is an outward and visible sign of kidney disease sometimes, and of Bright's disease. I knew she had that when she went into the hospital. I had found albumen in her urine in August, and again in my later examination. As regards what I say about gastritis in the certificate, I knew she had been ill more or less twenty-one days. At that time my opinion was that the acute gastritis was caused by a toxæmia, that is to say, a collection of poisons in the blood due to inefficient kidney action, and that the Bright's disease in the kidneys was secondary to the heart disease, which itself was probably caused by rheumatism—

which I then considered was rheumatic in origin. The first trouble was the heart, which was working inefficiently, and I put that down at the time to a rheumatic condition. If the heart works inefficiently, you first of all get congestion in the kidneys, and then finally some disease. If the disease does not abate you get poisons collecting in the blood, and you get what is called toxæmia, of which gastritis is one of the symptoms. At that time, except for the rheumatism, I had not got any other origins for the heart disease or heart inefficiency.

By Mr. Justice Darling—Toxæmia is poison in the blood?—Yes.

You did not then suspect that it had been introduced by somebody?—Oh, no.

Going back to the matter as we know it to be, we know that arsenic was found in that body nearly ten months subsequently. What is your opinion now?—My opinion now is that her illness when she went into the asylum was caused by arsenical poisoning. She had a remission of heart symptoms while she was in the asylum, and her last and final illness was again due to arsenical poisoning.

Her last illness after she returned from the asylum was caused by a fresh dose of arsenic?—A fresh dose of arsenic.

Examination continued—When you say a fresh dose do you mean a single dose on one day or not?—No. I have not been asked the question, but my own opinion is that the paralysis which she suffered from was due to arsenical poisoning, and the recurrence of her nerve symptoms shortly after she returned from the asylum was due to a large dose of arsenic being given.

By Mr. Justice Darling—About what date would that be?—I should think it would be about seven days. The symptoms were on the 11th; say, a week or ten days previously, about the 3rd February. That is only a guess, but it is my opinion. The later symptoms and the acute gastritis were due to continued large doses of arsenic.

When you say "large," what do you mean?—Not absolutely poisonous, but continued; perhaps a grain administered from time to time; and the fatal termination was due to an actually poisonous dose.

What sort of quantity?—Anything over 2 grains.

Examination continued—Mrs. Armstrong was a teetotaller. From time to time she took homœopathic medicines. When she was so acutely ill in February the nurse asked me if I had any objection to her taking some homœopathic medicine. I asked to see the bottle. Two bottles were produced, as far as I recollect; "Brucine" was written on one, and on the other "Ignatia." I am speaking just from recollection. I ascertained at the time that these were homœopathic medicines. I believe it was Major Armstrong who showed me the bottles. He told me that she had been in the habit of taking this drug when she had her bilious

attacks, and he asked me if I had any objection to her continuing it. Naturally I did not know anything about it, so I said no, not until to-morrow, but in the meantime I would look it up. I did so in Martindale's "British Pharmacopœia," and I found it was quite harmless. They are both an alkaloid of strychnine or nux vomica; they contain alkaloid strychnine. In the small minute doses that they were prescribed they were quite harmless. I believe they are both prepared from one and the same plant, the plant from which strychnine is prepared. The bottle was just a little phial holding about an ounce. (Shown bottle.) That is the bottle. I think the other one was a smaller one. They contained liquid. I do not know anything about taking a pilule and a drop of the tincture with it.

Supposing this lady had within her reach or in a cupboard in her room a number of bottles containing anything, do you think in her condition it would be possible for her to have administered them to herself during the last three or four days of her life?—Absolutely impossible. I am familiar with Dr. Andrew Clarke's pills. They are pills which Dr. Andrew Clarke, afterwards known as Sir Andrew Clarke, gave a prescription for. I can remember those pills being in use twenty-five years ago in Edinburgh. I know, roughly, what they contain—iron, aloes, ginger, myrrh, soap, and possibly nux vomica. Soap is used as a vehicle for that and other drugs. You may use chalk or a number of other vehicles for compounding the pill, to make the pill stick together. I have a similar pill that I prescribe.

The Court adjourned.

Fifth Day—Friday, 7th April, 1922.

Dr. Thomas Ernest Hincks, recalled, further examined by the Attorney-General—In the course of my examination of Mrs. Armstrong I examined her eyes. The pupils reacted normally. That is a test in nervous cases. I found they acted normally to light and accommodation. By accommodation I mean when you look at a distant object the pupil dilates, and when you look at a near object the pupil grows smaller. Such action was present in Mrs. Armstrong's case. Mrs. Armstrong never had any sore throat during the course of her illness. I am not sure that there was any rise of temperature above the normal throughout her illness.

I know Mr. Martin. I have attended him professionally since he came to Hay after the war, in 1919. I attended him first of all with reference to a wound he had had. When I first attended Mr. Martin he was suffering from facial paralysis on the right side of the face. He was unable to talk clearly, and he was also suffering from deafness. This was due to a wound he received in action in France, involving a fracture of the jaw. That has not entirely passed away to-day. To a slight extent there is still some trace of facial paralysis. The speech has improved. I did not attend him for anything else up to the 21st October. When I had the opportunity of attending him for his facial paralysis I observed that his general condition of health was very good. On 27th October, in consequence of a message I received, I went to his house about nine in the morning. He was in bed. I examined him. I was told the history of his case. I knew that there had been vomiting and some diarrhœa. He had an anxious expression on his face. His face was pallid and his eyes were suffused, that is to say, injected. They looked red—what one would call bloodshot. His tongue was clean and his temperature was normal. I examined the abdomen, and there was tenderness in the stomach region above the naval and below the rib in the centre of the abdomen. There was no tenderness over the appendix, nor was there tenderness over the liver on the right. There was no enlargement of the liver. There was no distention of the abdomen. In fact, beyond the tenderness I have mentioned, the abdominal symptoms were negative. His pulse was rapid, 120. The heart sounds were normal, but a very rapid action. The normal rate of a heart for a man like Mr. Martin is 76 to 80. There was a utensil by the side of the bed which contained a yellowish green material, which I examined. It was vomit. I was told that he had been vomiting incessantly all night. My opinion at that time was that he was suffering from a bilious attack, and I prescribed accordingly. I prescribed bicarbonate

of potash and liquid carbonate of magnesia, and a little tiny drop of spirits of chloroform, and so on, and lemon juice, or something of that sort. I also had a mustard plaster put on his stomach, and I prescribed 2 grains of calomel. I saw him again in the evening. He was still vomiting. His pulse was still rapid, but his condition was slightly better. I saw him on the following morning, the 28th. He was still complaining of sickness, but I believe not actually vomiting, although he was feeling very sick all the time—nauseated. I then prescribed a mixture of bismuth and tincture of rhubarb. His pulse was still rapid, and there was still some tenderness in the abdomen. The tongue was perfectly clean. There was no other symptom beyond what I have already described. The diarrhœa was not continuing. I saw him again on the 29th. I inquired whether the bowels had moved or not. The calomel had not acted. I gave him an aperient mixture. He was much better on the 29th, but his pulse was still high. The symptoms were all the ordinary symptoms of a bilious attack, with the exception of the rapid pulse. I could not account for it on the theory of the bilious attack—the constant rapid action after his sickness had ceased. The next day, the 30th, which was a Sunday, I decided to take a sample of his urine. I saw him on the Sunday morning. I took a note of his symptoms. He was much better that morning. I went again on Monday, 31st, to see him. He handed me a bottle containing the urine I had asked him to collect. I took the bottle down to Mr. Davies, the chemist, in Hay, direct in the car. He is Mr. Martin's father-in-law. In my presence the cork of the bottle was tied up with string and sealed, and I wrote a label and labelled it myself. I gave instructions to Mr. Davies to send it to the Clinical Research Association for analysis, and I wrote a covering letter to be sent as well. I received a reply from the Clinical Research Association on Wednesday, 7th November. In my opinion it is not possible under any normal attack of biliousness that there should be arsenic found in the urine.

By Mr. Justice Darling—I do not quite understand—arsenic to be found anywhere in the body would have to be administered because the body cannot secrete arsenic?—No.

Examination continued—Is there any normal form of illness that would cause the arsenic to be found in the urine without its being actually administered?—No, there is none. I make up my own medicines. The medicines I gave to Mr. Martin were all made up by me in the ordinary course. On the 30th I sent Mr. Martin a tonic, consisting of ammonia and nux vomica, I think, and gentian. At no time during the course of Mr. Martin's illness did I send him any medicine that contained arsenic. From the report on the urine I have formed the opinion that Mr. Martin's illness was caused by his taking a considerable dose of arsenic.

Evidence for Prosecution.

Mr. Martin told us of one symptom that he had. He said that he did not like the light?—Yes, that is so.

Do you attach any importance at all to that as a symptom or not?—Not a special symptom; it is a symptom that may occur in any serious illness. As I already stated, during the course of her last illness Mrs. Armstrong had difficulty in co-ordinating the use of her fingers. She was unable to pick up anything.

Now we know that arsenic was found in Mrs. Armstrong's body afterwards—taking those symptoms of the hands and fingers, and the want of co-ordination, does that make anything occur to your mind that the muscles failed?—It convinces me that she was suffering from multiple neuritis, a form of neuritis distinct from ordinary, simple, localised neuritis.

I want that put into a more homely form. Is there some cause which causes multiple neuritis in both hands?—There is toxæmia. There are various poisons in the system which cause multiple neuritis, for instance, diphtheria symptoms after influenza. Then there are other poisons that will cause it, and notably one of the most important is arsenic, and, in my opinion, this was arsenical multiple neuritis.

On Thursday, 27th October, the day I was called to Mr. Martin, Major Armstrong came to my surgery door. He asked me what was the matter with Mr. Martin. I cannot remember whether it was in the morning or the afternoon. I said he had got a bilious attack. There was no reason for which he called at all except to ask that question that I can recollect.

Cross-examined by Sir H. Curtis Bennett—I have been in practice since 1898—for twenty-four years. I have had a very considerable experience in general practitioner's work, also a great deal of experience of the ordinary maladies from which mankind suffers. Leaving out of question this particular case, I have not in my private practice looked after a person who has been suffering from arsenical poisoning. There was a case in the Queen's Hospital in Birmingham, under my care, being treated for arsenical poisoning. That was during the Boer War. It was one of those cases coming from beer; it was during the time when there were a number of such cases in the Midlands. It was taken accidentally. I believe the person recovered. I was house surgeon there for six months, and, as far as I remember, he was under my care, say, three out of the six months.

Apparently, then, for the whole of that three months that person was suffering from taking arsenic, and no more arsenic was administered during the three months; is that right?—That is right.

Then the effect of taking arsenic is that the person lived about three months?—I cannot say what happened after I left the hospital. I did not treat that case from its inception, and I cannot tell anything about the early stages of the case.

Dr Thomas E. Hincks

During the time you were treating the case, or any of the time you were treating the case, was the person suffering from vomiting?—No, I cannot remember it.

Just think?—If you mention the symptoms I can tell.

Neuritis symptoms, you said?—Yes.

And you do not know how long before you saw that patient the arsenic had been taken?—No, I do not know at all. I know if in the course of my attendance on any person I have suspicion that there has been foul play and that person dies, I have to inform the coroner or the police.

By Mr. Justice Darling—If you suspected foul play, whether the patient died or not, you would tell the police, would you not?—Not unless I had sufficient evidence.

Cross-examination continued—Quite right; you would go during life, but if on reconsideration you formed the opinion at the time of death that there had been during the course of that person's illness anything in the nature of foul play—you understand what I mean by that—you would undoubtedly, I am sure, either inform the police or the coroner?—I should. During Mrs. Armstrong's life, and at the time she died, there was nothing in any of her symptoms that were not consistent in my opinion with natural causes, so far as I knew them at the time.

Of course I am not dealing with what you know now. During the whole course of the time you were attending her, right up to and including her death, there was nothing, was there, that you could see which was inconsistent with natural causes?—No.

Otherwise you would not have given a certificate?—I should not have given a certificate. The certificate I gave was divided into three parts. The first thing I certified her death from was heart disease. I formed the opinion that that heart disease had been caused by a long course of rheumatism. Before I formed that opinion and put it down as part of the death certificate I was satisfied in my own mind that there was a sufficient history of rheumatism to account for her heart disease. The next thing was nephritis, six months. I formed that opinion as the result of my examination of Mrs. Armstrong before she went to Barnwood, and my examination of her when she returned, when I found albumen present. If there was sufficient rheumatism to account for heart disease, the heart disease would account for the nephritis. The acute gastritis I put down as twenty-one days. The acute gastritis was, in my opinion, at that time following on the heart disease due to kidney trouble.

So it all goes back to the heart disease caused by a long period of rheumatism which you satisfied yourself was sufficient for the heart disease?—There was no other evidence.

But there was that evidence?—There was that evidence. I was told that Mrs. Armstrong suffered from rheumatism from 1915 to 1918. I was not given any of the details such as we got

from Miss Friend. That was the time when Major Armstrong was serving. The first time I ever attended Mrs. Armstrong professionally was in May, 1919. She was then suffering from neuritis in the arm. I believe it was the right arm. At the time I formed the opinion that it was functional, that is to say, imaginary. People who imagine that they have such a thing as neuritis, of course, really feel pain, although in fact there is no organic cause for it.

And when first of all you saw Mrs. Armstrong your view (and, of course, you could only form a view upon it) was that that was an imaginary neuritis?—I did not make any definite diagnosis at that time.

I did not ask you that. All I asked you was your opinion at that time from your examination of her was that it was imaginary, and I understood you to say yes?—Yes. In May, 1919, Mrs. Armstrong told me that she suffered from rheumatism, and had suffered from it for years. I again saw her in June, July, and August of that year. I attended her up till the 27th August, 1919. On the 24th June I formed the opinion that it was not a functional condition, but a very rheumatic localised neuritis. It was on the 24th June that I formed the opinion that it was not imaginary. The rheumatic localised neuritis was in the wrist. I next saw Mrs. Armstrong on the 1st August, 1920. I did not examine her on that occasion. She had got chilled in the house. My special attention was not drawn to her on that occasion. On the 15th August, 1920, Major Armstrong came and asked me for a sleeping draught for his wife, because she was restless and could not sleep, and so on. I saw her somewhere about the 18th and 21st August. I have no definite notes in my book of symptoms; my entries in the day book are attendances and the medicines I prescribed. I am therefore speaking of something that took place over eighteen months ago. I have a great number of cases of that kind to deal with. On the 19th August, the night before Mrs. Armstrong went to Barnwood, Major Armstrong was present, and also Mr. Chevalier. Miss Friend was in the house. It was clear that night that she was suffering from delusions. It is quite possible that the question of the change of life was discussed as being partly the cause of it. It would not be altogether extraordinary in a nervous woman that at that time she might suffer from delusions. I did not know at that time that she had suffered for some time apparently from indigestion. I cannot recollect being told that. I do not recollect whether I read the form which was filled up by Major Armstrong before Mrs. Armstrong was admitted to the asylum. I was of opinion at that time that Mrs. Armstrong was suffering from delusions, but not neuritis.

Did you not know that when she went to Barnwood she was suffering not only from localised neuritis, but general neuritis?—No, not at that time; there was no symptom of it at that time.

On the journey to Barnwood Mrs. Armstrong vomited. She was always a pallid woman during the time I knew her.

There would be nothing otherwise (or your attention would have been drawn to it) out of the common in her looking more pale or sallow when she was ill at this particular time?—It was quite consistent with her other symptoms.

Which you thought natural?—Which I thought at the time was due to biliousness.

I am anxious to cover this time of August, 1920. At that time there was nothing in her symptoms you found which was inconsistent, as you have told me, with natural illness?—No, there was not.

And may I take it that the form of delusions that Mrs. Armstrong was suffering from at that time was melancholia?—Yes.

You told my friend the Attorney-General that you did not think at that time of toxæmia—that is a poison. Let me put it another way so as not to be misunderstood about it. A person may suffer from toxæmia as the result of some poison taken or administered, or the result of auto-intoxication from himself?—He may.

A person may be in such a condition for a number of years that he may poison himself?—Yes.

Mr. Justice Darling—You do not mean intentionally?

Sir H. Curtis Bennett—No.

By Mr. Justice Darling—A very decayed tooth may cause poisoning of the blood?—Yes, auto-intoxication.

Cross-examination continued—Or years of indigestion or years of rheumatism—that is right, is it not?—Yes, absolutely. A person may become poisoned as the result of not only poison taken or administered wilfully, but after years of ill-health, such as years of indigestion and rheumatism.

By Mr. Justice Darling—Years of indigestion or rheumatism may cause toxæmia, but years of indigestion or rheumatism would not cause poisoning by arsenic.

Sir H. Curtis Bennett—With great respect, nobody is suggesting that for a moment.

Cross-examination continued—In August, 1920 (I am not dealing with what happened in February), you said Mrs. Armstrong undoubtedly died of arsenical poisoning. In February to August, 1920, the conditions you then found, as you say, toxæmia, may be set up by ill-health, such as years of indigestion and rheumatism; that is right, is it not?—Yes.

Now, to follow that step further, assuming, if you will, a person to be poisoned by auto-intoxication, that person would be quite likely, would he not, to suffer from peripheral or general neuritis? That is one of the ways the poison may show itself, is it not?—There are certain definite poisons we recognise as causing multiple neuritis.

Evidence for Prosecution.

Dr Thomas E. Hincks

Is not auto-intoxication one?—I cannot say I have ever seen a definite case of neuritis following auto-intoxication.

Do you say, in your experience, you have never seen a person suffering from general neuritis?—Yes, but not due to auto-intoxication.

Have you seen such a person?—Yes.

Do you suggest the person only got into that condition as the result of taking poison?—No, certainly not. What I mean is, I have seen a case of multiple neuritis following—I certainly did not attend him—I have seen three or four cases following neuritis, but never due to a septic tooth.

Are you prepared to swear that a person suffering for years from indigestion and rheumatism, and having got toxæmia from that, could not suffer from multiple neuritis?—Not multiple neuritis from that.

And general bad health?—No.

Would you say that a person could not suffer from multiple, or, as I prefer to call it, general neuritis as a result of auto-intoxication?—From certain specific poisons.

I leave out specific diseases—diphtheria and such like—from general bad health for years, rheumatism for years, neuritis and indigestion for years?—I cannot say that. In my opinion there must be something beyond mere indigestion to cause multiple neuritis.

Something beyond indigestion, I quite agree. I am not putting indigestion by itself. Do you admit that a person suffering from indigestion and rheumatism for years may suffer from toxæmia?—Yes.

And a person suffering from toxæmia may suffer, may they not, from multiple neuritis?—They may.

That is all I have been putting to you?—Yes, *but*—there is a but there, and a very big but. I say the only case of multiple neuritis I have known following toxæmia has been due to some definite well-recognised poison. By poison I do not mean——

Oh, no, I understand; some specific poison?—Some toxin produced by a definite disease.

But when once a person is suffering from toxæmia, I understood you to say that person may suffer from multiple neuritis, but you do not think they would; is that right?—I am not quite definite on that.

I want you to be?—There are certain conditions that may produce multiple neuritis, and toxæmia be caused, but ordinary indigestion is not one.

No, I do not put that as one. I am dealing with all the symptoms—indigestion, rheumatism, and continued bad health for years. Take all those things into your consideration, a person suffering from toxæmia as the result of all those different things

for a number of years, are you prepared to swear that that person may not suffer from multiple neuritis?

Mr. Justice Darling—All this is very general, having regard to the fact that he said Mrs. Armstrong really died of poison caused by arsenic.

Sir H. Curtis Bennett—Yes, in February.

Mr. Justice Darling—What we are concerned with is what killed her—whether she was killed by murder or not, and you do not want, then, whether she died of poisoning by other means.

Sir H. Curtis Bennett—I am defending a man who is charged with murder, and for some reason or other the Attorney-General has gone with considerable detail into the symptoms in August, 1920, and the suggestion is that Mrs. Armstrong was suffering from arsenical poisoning at that time. In my opinion, it is of the greatest importance, and, unless your lordship stops me, I should hold that view.

Mr. Justice Darling—I do not suggest that you should stop.

Sir H. Curtis Bennett—I am obliged to your lordship, but I want to deal if I can with the whole of this case, and not part of it. It has been asked whether she was suffering from arsenical poisoning in August, 1920, or not; but I will not deal with it further after what your lordship has said. I am going to call medical evidence upon it.

Cross-examination continued—You have said a person may suffer from toxæmia as a result of the things I have put to you?—Yes.

And I put it to you that a person suffering from toxæmia may have got it in the way I have put to you, and I asked you if a person may as a result suffer from general neuritis, and your answer was, I understood, he may. Is that a fair way to put it?—A fair way to put it that certain toxæmia would produce it, but I do not believe rheumatism is one.

Indigestion and ill-health?—No, I do not believe it is so. From the time Mrs. Armstrong went to Barnwood until she came away from Barnwood I did not see her. It may be taken that all the details I have given as to what I found as symptoms in January and February are also to the best of my recollection. I had information as to how Mrs. Armstrong was progressing at Barnwood. I knew that Dr. Townsend and Dr. Soutar formed the opinion during the time she was at Barnwood that the loss of power in the arms and feet, and the electrical sensation, as it was described, were functional. That is the view they formed, I believe, during those months. On 13th January Dr. Townsend wrote to me the letter (exhibit 26) in which he says—" Mrs. Armstrong has improved both mentally and physically, and Major Armstrong is now desirous of having her home. In my opinion she is not yet well mentally; she is constantly making accusations against herself of having misspent her life and failed in her duty

towards her husband and children, and she says she has been guilty of selfishness, so you see her delusions have not gone." Those are the sort of delusions she was suffering from in August. He goes on—"Her great anxiety is to return home, and so under the circumstances I think it will be well to get from the Committee on Monday next a leave of absence on trial for three months, and during that time it is possible that, with a change to home, she may return to her normal mental state, and, on the other hand, should she relapse and become impossible, she can return to Barnwood without re-certification. We consider that the paralysis of feet, arms, and legs was entirely functional." That letter was written at the end of the time at Barnwood. I did not examine Mrs. Armstrong at all on the 25th January. I called to see Miss Pearce. I remember Major Armstrong asking me about that time to keep an eye on Mrs. Armstrong. My attention was particularly directed to Mrs. Armstrong by Major Armstrong asking me to do that. The 30th January was the first time I went to see her after that. Major Armstrong asked me to go. I went again on the 6th February, and again on the 11th February. On the 11th February Mrs. Armstrong complained of still suffering from her feet and hands, and from this feeling of electric wires, as she put it, under her feet. She had not got these symptoms when I saw her on the 30th, and, I believe, not on the 6th. I place it on the 11th when she had those symptoms. She was perfectly well and able to walk about when I first saw her. Any symptoms she had from her attack of multiple neuritis while she was in the hospital had, in my opinion, entirely vanished after her return. They then came back again.

So that that condition which apparently had gone on over the months in Barnwood and was in existence to some degree on the 13th January when the letter was written, vanishes and comes back again; on the 11th February you find it?—On the 11th February I am certain of it. The high-steppage gait is a symptom of peripheral neuritis, however caused. In peripheral neuritis, multiple neuritis, you generally find that the muscles of the calves of the legs are very tender. I cannot say whether I found that here or not. In multiple neuritis you very frequently get, not a loss of the use of the hands and feet, but a numbness of sensation of the skin; you can prick a person in the skin and they won't know it, and, if they are not looking, will not feel it. That was not present in this case. I do not say that the pain in the muscles of the calves of the legs was not present; I did not test for it. I was not looking for multiple neuritis. I did not notice on the 11th February the blueness of the lips.

You do not deal with the ankle clonus?—Those are the symptoms that I remember. I have asked the experts to deal with it.

The condition in which you found Mrs. Armstrong on the 11th did not necessitate, in your opinion, another visit at once at

all?—No. Her condition at that time was not such that I thought she was dangerously or very ill. The visits entered in my day-book are actual visits. As the result of my examination on the 11th February I did not consider Mrs. Armstrong was in such a bad condition of health that I would have to call again for some time. I was telephoned for on the 16th February. I was reckoning on visiting her once a week. It was an urgent message from Major Armstrong's house that made me call on the 16th. At that time Mrs. Armstrong was pallid. The colour got better later on, but at that time she was merely pallid. She had been retching and vomiting a great deal. If a person has been suffering for some hours from violent retching and vomiting you do get soreness of the muscles of the abdomen. I cannot recollect whether I examined her vomit on that date. I always do examine a vomit if it has been kept for me. If I did examine it, there was nothing to fix it in my mind. Nurse Kinsey was there on that occasion. It was Major Armstrong who suggested her. I remember Nurse Kinsey telling me that she thought that Mrs. Armstrong ought to have a whole-time nurse. I do not think she mentioned a mental nurse. I do not recollect Nurse Kinsey stating that she was afraid Mrs. Armstrong might commit suicide. I never had any fear of suicide with Mrs. Armstrong. On the 18th Mrs. Armstrong was losing flesh as the result of not being able to retain any food. The sordes indicated nothing except that she was acutely ill. You get that in very serious illnesses. I have no recollection of telling Major Armstrong on the 19th or 20th, the Saturday or the Sunday, that Mrs. Armstrong was slightly better, and that I thought she was turning the corner. I never remember any improvement in her condition at all from the 16th onwards. I have already stated that I am quite clear that Mrs. Armstrong could not have walked after the 18th, and, in my opinion, she could not have fed herself during the last four days of life. No other doctor attended her in that last illness. When I went on the morning of the 22nd she was unconscious. Major Armstrong was there. There was nothing that he could have done by staying on.

As regards Mr. Martin, in my examination-in-chief at the Police Court I said, "I made inquiries what he had been eating, and I formed the opinion that he was suffering from a bilious attack brought on by overwork and lack of exercise." The symptoms were consistent with that, with the exception of the rapid pulse. If a person has been suffering from very violent sickness and vomiting, you very often get a rapid pulse, but it very soon subsides. There is nothing in a rapid pulse immediately after violent vomiting. At the time I saw the vomit it was not offensive at all. There was nothing more than ordinary bilious vomiting. Vomiting as the result of taking arsenic would be very offensive.

I suggest to you that vomiting as the result of arsenical poison would, if anything, be the other way. Arsenic has an antiseptic

effect, has not it?—Yes; but the odour will not depend upon that. The odour of a vomit will depend upon chemical actions that have been going on in the stomach.

I suggest to you that the very offensive smell after a vomit is consistent with a very bad bilious attack, or liver attack, and that the very offensive vomiting is not consistent with the antiseptic effect after three and a half hours of arsenic in the stomach?—I cannot see that the arsenic will have any antiseptic action on the contents of the stomach and any material that is poured out from the secretions in the stomach.

But do you say the other way round, that it would make the vomit offensive?—I believe it is more offensive than ordinary vomit in arsenical poisoning.

As in the case of Mrs. Armstrong (I mean the illness in February), so in Mr. Martin's case, there was nothing in the symptoms, excepting the pulse, which was inconsistent with what you thought it was—a bilious attack?—In Mr. Martin's case there was nothing.

It was only, as in Mrs. Armstrong's case, the fact that arsenic was found in the urine that made you form the opinion that it was due to arsenical poisoning?—That aroused my suspicion.

A question or two about the arsenic. What was found was 1/33rd of a grain; is that right?—Yes; that is what was reported to me.

By Mr. Justice Darling—When was the urine taken?—Sunday night or Monday morning, the 30th.

The suggestion as to when the poison was given was the 26th?—Yes.

Then it was four days after the suggested taking of the arsenic?—Yes.

Cross-examination continued—There are many ways, are there not, in which a very small trace of arsenic can be found in a person's body without that arsenic having been wilfully administered as arsenic?—It can.

And there are a number, are there not, of medicines that do in fact contain minute quantities of arsenic?—There are.

1/33rd of a grain, if that were all, would not affect a person at all?—No.

Is arsenic one of the impurities of bismuth, for instance?—I am not a chemist; I do not know.

If you would rather I leave these questions to Dr. Willcox, I certainly will?—I would.

This depends, does it not, in the case of Mr. Martin, on the finding of 1/33rd of a grain?—The whole thing depends upon that.

If it were not for that, there would be nothing in it?—No.

Re-examined by the Attorney-General—Let me clear this up upon the facts as they stand. One of the medicines that you

had given to Mr. Martin, so you told us, did contain some bismuth?—Yes.

What day was it on which the bismuth was given?—On Friday, 28th October.

By Mr. Justice Darling—What happened then?—I gave him a mixture containing an ounce and a half of lac-bismuthol.

Re-examination continued—Let me understand what the medicine was; give us the prescription?—As it is entered in my book it is "Lac-bismuthol, an ounce and a half; compound tincture of rhubarb, six drams; water to six ounces—tablespoonful every four hours"; that is half an ounce every four hours.

Did you make up that medicine yourself?—I made up that medicine myself. I should say that the lac-bismuthol is a stock mixture made up in bulk by Phillip Harris.

So has it got some chemical strength that identifies it in some way?—Yes, it is a definite strength, so much carbonate of bismuth and so much carbonate of magnesia and aromatics. I think it is 10 grains in each dram.

By Mr. Justice Darling—In your opinion would it contain any arsenic at all?—No.

Re-examination continued—As I understand it, at your surgery you keep this solution of bismuth, if I may call it so?—Yes, a stock solution made up.

Do you use that from time to time in medicines that you dispense for other patients?—I have used a lot of it lately.

It is used by a number of your patients?—Yes.

Have you any reason of any sort or kind to complain of that solution of bismuth?—No, I have not.

One more question about Mr. Martin's sickness. You were asked about the odour of the vomit, and you said the odour would depend upon the chemical action going on in the stomach. I think I am right?—Yes.

If arsenic is taken in the stomach does it act at all upon the stomach?—On the stomach wall. It would produce a hæmorrhage, an extravasation of blood and destruction of the stomach wall. There is an erosion of the lining membrane of the stomach and probably hæmorrhage into the stomach, and it is that hæmorrhage into the stomach mixing with the gastric juices which gives the foul smell and the odour to the vomit, and also the discoloration.

I was going to ask—this action causing the injury to the walls of the stomach and some escape of blood, does that have any effect on the colour of the vomit?—Yes, that produces a brown vomit from the action of the gastric juices in the stomach on the blood.

I want you to come back to Mrs. Armstrong's case. My friend asked you some questions, as I did also, about the 1919 illness. You told us that on the 24th June you formed the opinion

that it was a true localised neuritis?—Yes. It was in the wrist then.

Was there any outward sign of it being in the wrist at that time?—She had pain on movement and swelling in the joint of the wrist.

You have told us you thought that that was in the right arm?—Yes, it was in the same arm that she had complained of pain in before.

You told us that in 1920 you saw Mrs. Armstrong—in fact, on 1st August, when you went to see the little girl?—I did.

At that time did you have some conversation with her and see her?—Yes, I did.

I think you have told us what you found her state of health to be?—Yes.

Tell me whether she showed at that time any appearance or symptoms of suffering from severe auto-toxæmia?—No, none at all; she was apparently in quite good health, and took an interest in the child, who was suffering from something in the eye.

My friend has been discussing with you the possibility of a multiple neuritis, as you call it, arising from poisoning?—Yes.

If poisoning is the cause of this multiple neuritis, must it be acute or not?—It must be acute.

And if it arises from either fever or, as suggested, from rheumatism or indigestion, would those symptoms, if they are causing this neuritis, be acute?—I do not admit that they do cause neuritis, not those particular poisons, but they would have to be acute; it is always after some acute infection of some kind; there are certain specific ones.

When you saw Mrs. Armstrong on the 1st August, 1920, were there any signs of her suffering at that time from acute poisoning?—No, there was no sign at all.

By Mr. Justice Darling—Something has been said about functional, which appears to be imaginary, neuritis?—Yes.

Can functional or imaginary neuritis cause toxæmia?—No.

Re-examination continued—At this time when you saw her on the 1st August, 1920, was she showing any signs of this rheumatism continuing for which you had treated her in 1919?—She did not complain of any.

When was the last occasion on which you had been called to deal with her rheumatism?—That is difficult to say; some time in 1919.

Having had an opportunity of thinking over the symptoms, do you find any similarity in the symptoms which you found in August, 1920, and the symptoms which you found in February, 1921?—Of course I do. On the 16th February I found a repetition of the symptoms that she complained of on the day that I took her into the asylum. On the 11th February there was a repetition of the

symptoms that I now know appeared after her admission into the asylum.

Come to the 25th January, 1921, which was the first occasion on which you saw her after her return from Barnwood. On that date was she or was she not well able to walk?—Perfectly well able to walk.

Speaking generally, was there a marked difference between her condition on the 25th January, 1921, and her condition when she went into the asylum on 22nd August, 1920?—Yes, mentally she had improved very much indeed.

And physically?—And physically; she was pretty fit when I first saw her.

Now on the 11th February, was that the date on which the high-steppage gait occurred; I think you have given it to us already?—Yes, the nervous symptoms returned.

Will you give us your opinion of what her condition was on the 11th February as compared with the condition in which you saw her on the 25th January when she had just come out of the asylum?—On the 11th February she was suffering from multiple neuritis. As far as I am aware, there were no symptoms of multiple neuritis when I saw her on the 25th January.

You were summoned again on the 16th, and then you saw her again on the 17th February?—Yes.

I want to ask, because of a question my friend put, what brought about the pain she was suffering from then in the abdomen; what sort of pain was it?—Very intense; she would hardly allow you to place your hand over the abdomen.

By Mr. Justice Darling—What date was this?—On the 16th February. To suggest that it was simply due to vomiting is absurd, ridiculous, with the intense pain she was suffering. It was with the greatest difficulty I could examine her abdomen at all.

Re-examination continued—Let me clear up again this question after she had been to the asylum, and so on. When she came out from the home you saw her from the 25th January right away through her illness; had you any misgivings at all about suicide?—Not the slightest.

Was Mrs. Armstrong ready and willing to accept your ministrations to make her better?—She was very anxious to get better.

By Sir H. Curtis Bennett—I think you said yesterday that she would not take the medicines?—She objected very much to taking medicines; she did not believe in doctors, and I did not believe she had very much faith in myself at the time. She did not believe we knew what was the matter with her.

Re-examination continued—You told us of a case which had come under your own observation of arsenical poisoning; that was a case of arsenic which was, unfortunately, placed in beer?—Yes, an accident.

We know of it in the Courts; many of us have had to deal with the matter. Is the arsenical poisoning that arose in this particular case that you are speaking of what you call acute or chronic, or what word would you use?—When I saw it it was a chronic case.

Just put that a little more painly if you will?—There were no acute symptoms. The condition, as I remember it, was this, typical multiple neuritis following the long-continued taking of small doses of arsenic. That was the opinion we came to.

Do you remember over what period of time the beer had been consumed?—I cannot remember.

Was it a case of a single glass?—No, no; he had been drinking for months probably; I do not mean to say getting drunk.

Taking the same beer of a particular brand?—Yes, a few times a day over some months probably.

Dr. Arthur Allen Deykin Townsend, examined by the Attorney-General—I am a doctor of medicine and a bachelor of surgery, and I am medical superintendent at Barnwood House Hospital for Mental Disorders, at Gloucester. I have been a qualified medical man for thirty-one years, during which time I have devoted myself to mental diseases. I have not paid any special attention, as compared with mental diseases, to either neuritis or to any other form of physical condition as apart from mental condition. Mrs. Armstrong was brought to the hospital on the 22nd August, 1920. She came with Dr. Hincks. I saw her immediately on her arrival. She was in an exhausted condition. She was put to bed, and on examining her I found that her pulse was 120 per minute, her temperature was 100, her complexion sallow, her tongue was coated, and sordes round her mouth and teeth. I also examined her heart, and I came to the conclusion it was dilated and that there was a presystolic murmur. A catheter specimen of her urine was taken at once and examined, and found to contain albumen. The catheter specimen was taken because she would not pass it, or did not pass it. She did not pass urine in the hospital until she had been there for twenty-four hours. I attributed that to the vomiting and the loss of the body fluids. She remained in the hospital until the 22nd January. During that time I visited her almost daily. There was another medical officer, the assistant medical officer, Miss Janet Smith. She had charge of the case, but I visited her daily. Dr. Smith is now married and in New Zealand. Dr. Smith kept me abreast of the history of the case. Mrs. Armstrong was in bed until some date in November. It is recorded in the case-book that soon after her admission she complained of loss of power in the left hand. On 7th September she said she had lost her power in her hands and feet. Up to a point that increased. I should think the peak point was reached about the end of September. On 3rd October she was given a tonic medicine contain-

ing citrate of iron and ammonia, a hydrochloric solution of arsenic and nux vomica, three times a day. That was given for anæmia, and is a general tonic. She was given that until the 4th November. There were 5 minims of arsenic in each dose. Five minims would represent 1/20th of a grain of arsenic, so that in the course of a day she would get 3/20ths of a grain. That is a preparation or tonic which is very commonly used at the hospital.

By Mr. Justice Darling—Were other patients in the hospital taking the same mixture at the same time?—I could not say at that time, but there is nearly always some one taking that particular medicine.

Examination continued—It is almost a stock tonic. On the 4th November it was discontinued. After that no tonic containing arsenic was given to her at all; she got no medicine of any kind containing arsenic. There was wasting of the muscles of the arms and legs and feet in September. That was the time she was complaining about her loss of power in the arms and legs. Whilst she was in the asylum her condition improved. Her mental condition improved to a considerable extent, but she improved not so much mentally as physically. When she came in a specimen of her urine was taken, as I have already said, by means of a catheter. That specimen was examined by Dr. Smith, and was found to contain a light cloud of albumen. The albumen only continued for two, three, or four days, perhaps. When January came she was able to walk about quite well unaided. She could play the piano, feed herself almost entirely, and she could use her hands quite freely. As regards her mental state, the delusions had not altogether passed. She was still depressed, and she continued to give expression to delusions of selfishness and unworthiness, and of having failed in her duty to her husband and her family. On the 11th January I received the letter (exhibit 25) from Dr. Hincks—"Dear Dr. Townsend—I am glad to hear that Mrs. Armstrong is improving mentally and physically. From what Major Armstrong tells me, she appears to have lost her delusions and to be normal mentally. Her principal worry seems to be her surroundings, and her anxiety to get home to start her household duties again. The eldest child returns to school next Thursday. My suggestion is—if it meets with your concurrence—that he should take the child back to school by car and bring his wife home with him. There will be the old nurse at home, who may be trusted to look after her. The two young children will be at home. Kind regards. Yours sincerely, Thomas E. Hincks." Any medical man talking to her at that time would have found that she had delusions. She could sustain a connected conversation on general topics quite well, but the delusions were still present.

By Mr. Justice Darling—They were always the same de-

lusions, that she was unworthy, and had failed to look after her husband and children, and so on.

Examination continued—I replied on the 13th (exhibit 26)—"Dear Dr. Hincks—Mrs. Armstrong has improved both mentally and physically, and Major Armstrong is now desirous of having her home. In my opinion she is not yet well mentally. She is constantly making accusations against herself of having misspent her life and failed in her duty towards her husband and children, and she says she has been guilty of selfishness, so you see her delusions have not gone. Her great anxiety is to return home, and so, under the circumstances, I think it will be well to get from the Committee on Monday next a leave of absence on trial for three months, and during that time it is possible that, with the change to home, she may return to her normal mental state, and, on the other hand, should she relapse and become impossible, she can return to Barnwood without re-certification. We consider that the paralysis of feet, arms, and legs was entirely functional. It is very much better, but not yet quite well." I believe I sent an application form in that letter for the purpose of getting the leave of absence. If she was granted leave of absence, we would require a report about her from time to time. Leave of absence is granted by the Committee of the hospital for varying periods. The reason of it is that, if a patient goes away with leave of absence and breaks down again, she can be returned to the hospital without re-certification. During the time the patients are on leave of absence reports have to be sent to the hospital as to his or her mental state, and at the end of three months, if the patient is well, she is discharged. Supposing she became seriously ill during her leave of absence, and it was reported, I should probably go down and see the patient myself, or send one of the medical officers. I presume if a patient was seriously ill and died she would be under the care of some medical man while she was on leave of absence, and it would depend on whether that medical man was able to certify the cause of death. If he could certify the cause of death, the ordinary steps would be taken. He would grant the death certificate. I should simply have to make a report enclosing a copy of the death certificate to the Board of Control.

On the 14th Major Armstrong wrote—"Dear Dr. Townsend—Many thanks for form of application for release on leave. After careful consideration, I do not wish my wife to avail herself of this, and prefer that she be released. As far as I can tell from conversation and correspondence, her only trouble is caused by the knowledge of her surroundings. The original delusions have absolutely ceased, and I feel sure that a return to her home and light household duties will be beneficial." It is not true, as stated in that letter, that the original delusions had absolutely ceased. "I am quite prepared to take the risk, and shall be glad if you will treat this letter as a formal request for release. My eldest daughter leaves for school

on Tuesday, and the next child is with a friend every morning—who teaches him. It will take a few days to rearrange household matters, but if regulations permit I should like to take my wife back on Saturday week, the 22nd inst. Dr. Hincks tells me he has written you on the subject."

I replied on the 15th (exhibit 19)—" Dear Major Armstrong —I note that you do not wish me to make application to the Committee for the leave of absence on trial, but that you wish Mrs. Armstrong to be discharged, and that you propose to come for her on Saturday, 22nd inst. I am sorry that I shall not be able to discharge Mrs. Armstrong as recovered, for this is at the present time impossible, though we think she is steadily improving. Only yesterday she told me that her life had been one of utter selfishness, both with regard to you, her children, and home life generally, and her great desire to get home is partly due to the fact that she wishes to amend in the future what she thinks were her failures in the past. I had a letter a day or two ago from Dr. Hincks, to which I replied."

On the 20th Major Armstrong replied—" Dear Dr. Townsend, —Many thanks for your letter of 15th inst., which I quite understand. I shall come on Saturday to take Mrs. Armstrong back home, and expect to arrive between one and two o'clock. A friend is lending me his covered car so that she may pass the journey in comfort. Yours sincerely, H. Rowse Armstrong."

I replied on the 21st (exhibit 21) — " Dear Major Armstrong —I note that you will come for Mrs. Armstrong to-morrow, Saturday. I am sorry that I shall probably be out when you come, but my colleague will be pleased to see you. Mrs. Armstrong is somewhat excited at the idea of leaving, and last night she had no sleep, but I hope this unrest will soon pass off when she gets back to you."

On the 24th Major Armstrong wrote to me (exhibit 22)—" Dear Dr. Townsend, — I was sorry not to have seen you on Saturday, but you will be glad to hear that we had a comfortable journey, and Mrs. Armstrong is none the worse. I have been able to disabuse her mind of some absurd ideas, and no doubt the others will also vanish. I fear from what she has told me she has been rather a trying patient. Personally I am grateful to you for the care you took while she was there. As to my last account, the treasurer has £81 18s., which will have borne back interest since 24th August, 1920. Will you ask the treasurer to put one against the other, there may be a little due from me or to me, but he can adjust this."

I replied on the 25th (exhibit 23)—" I am very glad to hear that you had a comfortable journey and that Mrs. Armstrong is none the worse, and I hope that the change home may succeed

in dissipating any erroneous ideas she may have. I am obliged to you for the kind remarks contained in your letter, and I only regret that I was not able to discharge Mrs. Armstrong as recovered. With regard to the account, this will be adjusted by the auditor when he comes. I may say the advanced deposit, £81 18s., in accordance with our custom, is paid into our current account, and there is no accrued interest. I shall hope at a later date to hear that you are able to report that Mrs. Armstrong is perfectly well."

There is a final letter (exhibit 24)—" Dear Major Armstrong, —I was grieved to hear from the matron yesterday that she had seen in the *Morning Post* a notification of the death of your wife, and let me offer you my deepest sympathy. I did not hear that Mrs. Armstrong had been ill. Was there any sudden development? When Mrs. Armstrong came to us there was a good deal of heart weakness, but we thought that this had to a great extent passed off. Again let me assure you of my sympathy in your great trouble." I was surprised to hear of Mrs. Armstrong's death. From her physical condition when she left the hospital on 22nd January I had no cause to anticipate her early death. I had no answer to that last letter from Mr. Armstrong.

Cross-examined by Sir H. Curtis Bennett—I found a wasting in the muscles of the limbs of Mrs. Armstrong in September. It increased for a few weeks. That was caused to some extent by her being ill in bed and disused. She was a case of acute melancholia. Her delusions were all of that nature. Upon examining her urine I found albumen. It was again examined about a week or so after her admisson, but I have no knowledge of any further examination. After the 29th I have no record one way or the other as to albumen having been found.

A point has been made about Mrs. Armstrong having been discharged at the request of Major Armstrong from your home. As I understand it, in the event of a death, all that you would require would be a report from the doctor attending, and to be satisfied that that doctor could properly give a death certificate?—That is all I should require. Once I had that I would not consider it incumbent upon me to make further inquiries. The letter dated 24th August, two days after Mrs. Armstrong was admitted to the home, is my letter. In that letter I say, " There is no material change in your wife's mental state, her heart is distinctly feeble, and I am sorry to say that there is albuminuria, but she is taking all the nourishment ordered, and is having a good amount of sleep. Mrs. Armstrong is very confused. She rambles in conversation, and to-day there is a considerable amount of difficulty in getting her to remain in bed, but, of course, in her debilitated state this is absolutely essential." That was my view on the 24th August.

Dr Arthur A. D. Townsend

I also wrote the letter dated 15th October—"Dear Major Armstrong,—I am sorry we have come to the conclusion that Mrs. Armstrong is suffering from neuritis, which is involving both hands, feet, and legs. This gives her feelings of discomfort, and she has some loss of power and co-ordination. What the exact cause is it is difficult to say. It is probably toxæmia. Unfortunately, the altered sensation is giving Mrs. Armstrong the idea that she is being electrified, and her attention is abnormally concentrated upon the condition of her hands and feet, and as a result she is inclined to take an exaggerated view of her condition. There is nothing in this neuritis to cause you any anxiety, but I thought it well to let you know, and if there is any further development I shall inform you."

Upon the 22nd October Mrs. Armstrong was examined by Dr. Soutar and myself. The report reads—"We have considered to-day Mrs. Armstrong's case, and were in agreement as to the nature of the case, but you may like to have my opinion in writing, so that you may let the patient's husband see the report, or a copy of such part of it as you think advisable." That is a report from Dr. Soutar to me to be sent on. In that report it says — "The subjective sensations of which the patient complains are common in functional disorders, and the distribution and variability of the objective alterations in sensation which are ascertained point to a functional disability. The postures of arms, legs, hands, and feet, which Mrs. Armstrong assumes, and her gait suggest functional rather than organic trouble. In her general mental attitude towards her physical manifestations there is that insistence on them and that concentration of attention towards them which are so characteristic of functional disorders." It was the view of Dr. Soutar and me on the 22nd October what she was suffering from was functional. By functional I mean a disability or loss of power or sensation without organic disease. I formed the impression from what I saw and found, and the general history, that in Mrs. Armstrong's case it was entirely due to the mind, without anything organic. The report goes on to say, "No doubt she had discomforts of a neurotic type which may have been the starting point of the functional failure of the limbs, and disuse had in turn maintained and continued there. It was notable that, under direction and suggestion, the postures could be readily modified." Dr. Soutar told me that. During the time Mrs. Armstrong was at Barnwood Major Armstrong visited her about six times, about once in three weeks. It was at my suggestion that he came at these intervals of time. He always appeared to have a natural concern for his wife. He did everything that I suggested should be done. Every time Major Armstrong came he took the opportunity of discussing her case with me when I was at home. Before calling in the specialist I asked his permission, and he readily agreed. He allowed her to remain on until the 22nd January,

and the view that he expressed was that, as she was better, perhaps being removed to home surroundings again she would get rid of the delusions which were still partially there.

Re-examined by the ATTORNEY-GENERAL—I wrote on the 24th August, "There is no material change in your wife's mental state. Her heart is distinctly feeble, and I am sorry to say there is albuminuria." Her heart was still very weak, the murmur was present, and her pulse was rapid. That indicates exhaustion. There would also be some dilation. I did not attach very great importance to the albuminuria, but I am always very sorry to see albuminuria in any case. It disappeared about the 28th or 29th, but I could not give the exact date. The note I have on the 28th is "Albuminuria practically cleared up." The letter says, "I beg to acknowledge receipt of agreement and list of questions." The list of questions is attached to the certificates. On the 15th October I say, "I am sorry we have come to the conclusion that Mrs. Armstrong is suffering from neuritis, which is involving both hands, feet, and legs." By "we" I mean myself and my two medical colleagues. "This gives her feelings of discomfort, and she has some loss of power and co-ordination. What the exact cause is it is difficult to say. It is probably toxæmia." That was our view at the time. At that time I had no idea of an active poison having been administered to her. With regard to the statement, "We consider the paralysis of the feet, arms, and legs is entirely functional." Looking at the subsequent history of the case as told to me, I think that that opinion was not correct. If I had been told that the patient had received doses of arsenic before coming into the asylum I should have formed the opinion that she had had some toxin.

By Mr. JUSTICE DARLING—You would not now say that her state at that time, her disabilities, were entirely functional?—I would qualify it by saying that at one period there was an organic cause as well.

Re-examination continued—The wasting of the muscles that I referred to began, I think, in September, and continued, so far as I recollect, to the end of September. During that time I think the neuritis was functional. Wasting of the muscles may be due to organic or functional neuritis. If it is an organic condition, nerve condition, you would get wasting of the muscles; if it is functional, you would get it from disuse. If it is organic, there is something which causes the wasting of the muscles; and if it is functional, and the muscles are disused, there is a tendency to waste from disuse.

I want to come to this letter of the 22nd October—"We have considered to-day Mrs. Armstrong's case, &c." "No doubt she had discomforts of a neurotic type which may have been the starting point of the functional failure." Does that mean neuritis followed by functional failure?—Dr. Soutar meant neuritis by that.

That was the opinion formed on this 22nd October?—22nd October.

After that time, speaking generally, did she make marked progress physically?—She made steady progress physically.

John F. Davies, examined by Mr. Vachell—I am a member of the Pharmaceutical Society, and I carry on business at Hay as a chemist. I have been there for about forty years. My daughter is married to Mr. Martin, solicitor. I know Mr. Armstrong. Before the war he had from time to time made certain purchases of weed-killer and arsenic from me. As regards the purchases of weed-killer, I have a record in the ledger. As regards one record of the arsenic we have lost the poison book, and I have only got it in the ledger, but as regards the other we have it in the poison book. These purchases began in 1912. On the 27th July, 1912, one gallon of weed-killer was purchased. That weed-killer is composed of a solution of arsenic and caustic soda, and is sold in a concentrated form for dilution with water. The next purchase was on the 23rd June, 1912, 3 gallons of weed-killer. The next was on 23rd June, 1913, 3 gallons of weed-killer. Then on 2nd May, 1914, 1 lb. of caustic soda and ¼ lb. of arsenic. Then there is an entry in the poison book on 7th June, 1919, ½ lb. arsenic. I made that sale myself. Mr. Armstrong came into the shop and said he wanted to buy some arsenic. I asked him what he required it for. He said he wanted it for weed-killer. I told him it would be necessary to use caustic soda, or common washing soda, to dissolve it, in which case he would have to boil it. He said he had dabbled in chemistry, and knew all about it. I tried to sell him weed-killer, but he said he preferred to make it himself. We discussed the amount he would require, and eventually I sold him half a pound. Then on 4th May, 1920, he purchased 4 gallons of liquid weed-killer, and on 4th August, 1920, two tins of powdered weed-killer. There is one more sale, 11th January, 1921. That sale was not made by me; it was made by my assistant. It is signed for in the poison book. That is Major Armstrong's signature. When ready-made weed-killer is sold, the purchaser should sign the poison book. There is one other purchase on the 4th August, 1920. That was purchased by Jay; we did not get Major Armstrong's signature. It was charged to Mr. Armstrong's account. I have searched for that sale in the poison book, but I have not been able to find it.

I remember my son-in-law, Mr. Martin, being seized with illness in October, 1921. I went to the house on one or two occasions when he was ill. On Sunday, 30th October, I selected a clean bottle, washed it thoroughly, and took it down to Dr. Hincks. I washed it half a dozen times before I took it. I afterwards received it back with a sample of urine in it. That was on the Monday morning. Dr. Hincks himself brought it to my shop. He sealed it in my presence with my seal. He also put a label on it. It

was packed up immediately and sent off to the Clinical Research Association by me. (Shown bottle)—That is the bottle. I sold the half-pound of white arsenic myself on the 7th June, 1919. The arsenic was coloured with charcoal. I did not sell the arsenic on the 11th January, 1921; it was my assistant, Hird. (Shown exhibit 33)—That is one of our trade wrappings and labels. That presents the appearance that white arsenic does when it is sold to a customer. We have to colour it.

Cross-examined by Sir H. Curtis Bennett—The only two entries which appear in the poison book are the entries of arsenic sold, the first on the 7th June, 1919, and the second on the 11th January, 1921. I cannot point to any entry in the poison book in relation to weed-killer. The sale was not made direct to Major Armstrong, but to the gardener, and we put it in the ledger, and thought that sufficient. That is the only record we have of the sale. There is no entry in the poison book of any purchase of weed-killer either by Major Armstrong or any of his servants. The amount of weed-killer purchased by Major Armstrong over these two years is not considerable considering the amount of ground he had to cover. The sale of arsenic on 7th June, 1919, was a sale by me to Major Armstrong himself. That arsenic was coloured by me with charcoal. It is essential that it should be coloured. The arsenic which has been shown to the jury would be exactly similar to the arsenic which I sold in June, 1919. I cannot tell whether or not it is some of the arsenic I sold on that occasion. The purchase which has been referred to of powdered weed-killer on the 4th August, 1920, was a purchase made by the gardener, Jay.

He said that he purchased four tins, and used three and a half. Do you say he only purchased three?—That is all we have charged for, and that is all he could have purchased, or else we have made a mistake.

By Mr. Justice Darling—As a general rule we enter weed-killer in the poison book, but when gardeners come for it we do not enter it.

Cross-examination continued—All the purchases of weed-killer were made by the gardener. There was another chemist in the town from whom he could have purchased poisons, but he finished up in the early part of 1921. His name was Mr. Stokoe. My recollection is very vague with regard to the purchase on the 11th January, 1921, but my assistant says I was present.

What your assistant says is—"Major Armstrong came in, asked for arsenic, and I asked what he wanted it for, and he said weed-killer. Then Mr. Davies came forward and told him that he would want potash with it to dissolve it." Do you remember that?—I remember it, but I remember it in connection with the sale of half a pound of arsenic in 1919. If one wanted to buy arsenic for the purpose of making weed-killer it would be the proper thing to buy caustic soda as well. Major Armstrong did

that. The only record we have of the sale of arsenic in the ledger is before the war.

By Mr. Justice Darling—There is no record of his buying caustic soda on the 11th January, 1921. That was a cash transaction.

Cross-examination continued—There is also no record of his buying caustic soda in 1919. That was also a cash transaction. Caustic soda is usually contained in 1 lb. tins. The proper proportion to mix weed-killer at is about half and half. I remember Major Armstrong on one occasion telling me he had his own recipe for making weed-killer. He told me he knew all about it. (Shown tin)—That appears to be white arsenic. It is not tinted with charcoal. It has our label on it. That cannot be the packet that was sold to Major Armstrong in 1919.

I suggest to you that the remainder of the packet which you sold to him in 1919 is what you have seen coloured with charcoal. You have told me you cannot say one way or the other?—Yes.

But it is similar?—It is similar.

I suggest, and at the proper time I am going to prove it, that that is the remainder of the purchase which was made on 11th January, 1921. You say you were not present at that purchase?—I say my recollection of it is very vague. My assistant tells me I was present. It ought to have been coloured. The weed-killer also ought to have been entered in the poison book. It would be the custom to wrap it up in two papers. That is in case of accident; one paper is very easily broken. That packet is wrapped up as a purchase from my shop would be wrapped up, but it is white and not coloured. I could not exactly say how long I had the bottle into which the urine was put in my possession before I handed it over to Dr. Hincks, but I should think perhaps two or three months. I am just speaking from guesswork. The bottle had contained peroxide of hydrogen, and that is about the time that that quantity of peroxide would last. That is what I am going on. It had been empty about three or four days, I should think, standing in the shop. Empties of all kinds are put into the cupboard, but no preparation of arsenic would go into that cupboard. Bottles that have contained poisons would be put into the cupboard—all bottles to be returned to wholesale houses. The reason why I said arsenic would not be put in there is because we do not send any empty arsenic cans back in that way; they are not returned. Arsenic generally comes in parcels, and we put it into stock cans, which we keep. We do not send any empty tins back. There are only practically two preparations of arsenic which we make ourselves, the liquor arsenicalis of the British Pharmacopœia, and liquor arsenici hydrochloric. They go into stock bottles. The place where the cupboard is where the empty bottles go, is the place where the washing of the bottles takes place—in the same room. I did not use any chemical for washing out the peroxide of hydrogen, only cold water. It is a

green bottle, called a Corbin Court bottle. The cork was a new one. I did not have to shape the cork. It fitted the bottle. Having got the bottle back, after washing it out with cold water and sending it away—when it came back from Dr. Hincks I sent it straight away.

Re-examined by Mr. VACHELL—When I took the bottle to my son-in-law's it was for the purpose of getting a sample of urine. I did not know what would be done with it to my own knowledge, but I presumed it would be sent to the Clinical Research Association for analysis. Under those circumstances, as a chemist, I realised the high necessity of having a perfectly clean bottle. I did all I could to see that the bottle was clean. I washed it thoroughly with clean water myself. I do not think it is possible that it could have been contaminated by some arsenical preparation in the cupboard.

By Mr. JUSTICE DARLING—Can you imagine any way whatever by which arsenic in any quantity at all can have got into that bottle?—I cannot.

Re-examination continued—With regard to the arsenic produced, I cannot tell whether this parcel was actually sold by me or not, but it evidently came from us, as it has our label on it. We get the arsenic from a wholesale house. It comes to us white. When we make a retail sale we ought to colour it with charcoal, soot, or indigo.

I suppose you at least realise the possibility of a retail sale being made without the Act being complied with in that respect?—I am sure I did not make one personally, but it is possible that such a thing could be done.

JOHN HIRD, examined by Mr. MICKLETHWAIT—I reside at Ashbrook House, Hay, and I am an assistant to Mr. Davies, chemist. I know Major Armstrong. I recollect him making a purchase of arsenic from me last year. (Shown poison book)—That is his signature. He signed that in my presence. When he made that purchase he came into the shop and asked for a quarter-pound of arsenic. I asked him what it was for, and he said weed-killer. Then Mr. Davies reminded me to colour it with charcoal, which I did, and then I entered it in the poison book. After that I put a label on it—the slip "Poison" label on it, with "Arsenic" on it—and wrapped it up in two papers and tied it with string. It was charcoal I coloured it with. I cannot recollect whether I got the charcoal from the bottle in the shop or from the warehouse.

By Mr. JUSTICE DARLING—We keep a small portion of charcoal in a bottle in the shop. I should say that I would put half an ounce or perhaps an ounce of charcoal into the quarter pound of arsenic. We do not weigh the charcoal.

Cross-examined by Sir H. CURTIS BENNETT—I have always understood that arsenic had to be coloured when retailed as a pro-

tection against accident. When Major Armstrong came in he told me he wanted it for weed-killer, and he also said something about a recipe for a weed-killer; he said he had a recipe for making it. I would wrap the arsenic up in one paper, and then re-wrap it in another. Having wrapped it up in the two pieces of paper, I would then tie it up and put a label on it bearing on the face of it "Poison" and "Arsenic," and the name and address of Mr. Davies. (Shown package produced to Mr. Davies in cross-examination)—That is a package with a label on the outside such as I have described and the name and address of Mr. Davies. I notice that there are two pieces of paper on it, one white and then the blue one outside.

I suggest to you that that is part of the sale that you made to Major Armstrong on the 11th January, 1921—half of it. That may be so, I suppose?—I do not think so. I would wrap up the whole quarter-pound in that packet.

Looking at that piece of paper do you think that if you sold 4 ounces you could wrap it up in that piece of paper?—Four ounces would go into the paper. I do not think 4 ounces have been in it, but I should say 4 ounces could be got into it.

If there is any doubt about it we will have a test made at the right time; but that is your view, that you could get 4 ounces into that piece of paper?—It could be done.

We are thrown back to this terrible position, that, if that is part of what you sold on that day, then you made a mistake and did not colour it. That is right, is it not?—I have such a good recollection of colouring it.

Because it is a usual custom; is that right?—No, not exactly. I have not sold much arsenic.

By Mr. Justice Darling—You have not sold much arsenic, and you say you have a good recollection that you coloured it on the 11th January?—Yes, I have a good recollection of colouring it.

Cross-examination continued—Your recollection is that Mr. Davies was there, and that Mr. Davies came forward and told Mr. Armstrong that he would want potash with it to dissolve it?—Yes.

Mr. Davies says he does not remember saying anything of the sort. Do you think that may be a mistake by you?—It came very clearly to my recollection.

That package is done up as you would do a package up, and is labelled as you would label a package, is it not?—I cannot say about the blue paper. I do not remember the blue paper at all. The label is as I would put a label on. Very probably the white paper is the sort of paper I would use. I have no recollection of the blue paper.

Re-examined by Mr. Vachell—We wrap up arsenic in two papers, because one would not be strong enough. I do not remember using in January last any blue paper such as is on the package produced for the purpose of wrapping up a drug of this

character. (Shown package)—The brown paper is similar to paper I would use. I notice that there is a label on the inner paper, and also on the outer paper. It is much safer to do that. When Mr. Armstrong was in the shop on the 11th January, 1921, I recollect Mr. Davies saying to me, "Do not forget to colour it with charcoal." I have a distinct recollection that I coloured it. I stated before the magistrates that I tinted it with charcoal, and it was wrapped in two papers. I was examined on the 12th January, and I was recalled on the 9th February, 1922. On the second occasion I said, "The evidence which I gave before the Court on 12th January is true and correct." Mr. Matthews was present on behalf of the prisoner on both occasions, and on neither occasion did he challenge the truth of what I said, nor did he at any time suggest that I had forgotten or omitted to colour the arsenic which I sold on the 11th. Until I came into the witness-box to-day I had no idea that it was going to be suggested that I had not coloured the arsenic which I sold on the 11th January last.

Deputy Chief Constable Albert Weaver, examined by Mr. Micklethwait—I am deputy chief constable at Hereford. At 12.30 on the 31st December I saw the prisoner at his office in Broad Street, Hay, and I told him I was going to arrest him. I cautioned him. I charged him with attempting to murder one, Oswald Norman Martin, at Cusop, on 26th October last, by administering poison, to wit, arsenic. He replied, "I am quite innocent." We kept him in the office a considerable time while we searched the office. I asked him to clear out his pockets. I also searched his pockets. There were various letters and articles pulled out of his pockets and they were put on the end of his desk. I then put them into a brown paper parcel. They were left lying loose for some little time before being fastened up, when a little incident occurred.

What was it?—During the search in the office I heard Chief Inspector Crutchett remonstrate with the prisoner for touching these particular articles. The prisoner was moved from the position which he was in then and put further out in the room, and I tied the property up in a brown paper parcel. I eventually took the brown paper parcel to the police station at Hay after the prisoner had been removed there. I handed it to Sergeant Williams, with the request that he should lock it up, and he did so in my presence. On Thursday, 19th January, I charged the prisoner with murder, and cautioned him in the usual way. He said, "I am absolutely innocent."

Cross-examined by Sir H. Curtis Bennett—He said, "I repeat what I said before, I am absolutely innocent." When he was detained on the 31st he made a statement, which was taken down. When I heard Mr. Crutchett tell the prisoner to leave the things alone there were Sergeant Worthing, Chief Inspector

Crutchett, and myself in the room. We were searching his office at the time. It is a fairly large office.

Re-examined by Mr. VACHELL—Inspector Crutchett and I were searching the room when I heard a rustle of papers, and as I turned round I heard Inspector Crutchett say, "What are you interfering with that for?" or "What are you doing there?" or words to that effect.

Chief Inspector ALFRED CRUTCHETT, examined by Mr. VACHELL—I am one of the detective chief inspectors at Scotland Yard. About ten o'clock on the morning of the 31st December last, I, along with one of the officers from the Yard, Sergeant Sharp, went to Mr. Armstrong's office at Hay.

I think you can probably tell us in your own way what took place?—We were accompanied by Superintendent Weaver, who has already given evidence, and we went into the office and up the stairs, and knocked at a room door which he understood was Mr. Armstrong's office. A voice said "Come in," and we went in, and Mr. Weaver introduced me to Mr. Armstrong. He said, "This is Chief Inspector Crutchett from Scotland Yard," and then said to Mr. Armstrong, "Inquiries have recently been made concerning the sudden illness of Mr. Oswald Norman Martin after his taking tea with you on the 26th October last at your house at Cusop. He was taken ill soon after he left you on that date, and was later seized with sickness and purging. A specimen of his urine was taken on 30th October, and arsenic was found in it. These symptoms point to arsenical poisoning. It is known that you have purchased arsenic, the last occasion being on the 11th January, 1921. It is, therefore, necessary to inquire whether, and if so how, and by whom, arsenic could have been introduced into the food taken at the tea party. It may be that you would like to make a statement as to your own actions on the 26th October, why Mr. Martin was asked to tea, as to what became of the arsenic purchased by you, and as to any other facts that may throw light on the matter, but I must tell you that anything you do say will be taken down in writing and may be used in evidence hereafter." Mr. Armstrong replied, "Certainly. This is a very serious matter; I will help you all I can. I was not aware that arsenic had been found in Mr. Martin's urine, and I appreciate the circumstances call for some explanation from me. I will make a statement and tell you all I know." Mr. Armstrong then made a statement, which was taken down in writing in his presence and my presence, and Superintendent Weaver's presence, by Sergeant Sharp. Later it was read over by Mr. Armstrong himself, he corrected it and signed it, and at my suggestion he put at the end of it that it was a voluntary statement made without being questioned, and at my suggestion he prefaced the statement with the fact that he had been cautioned by me.

For the rest it is his own dictation?—It is his own.

Statement by the Prisoner.

[The Clerk of Assize read the statement as follows:—]

"Broad Street, Hay, 31st December, 1921. I, Herbert Rowse Armstrong, after having been cautioned by Chief Inspector Crutchett that anything I may say may be used in evidence hereafter, wish to make the following statement:—Mr. Martin is a brother solicitor in Hay. He had been married in June last, but owing to *a personal bereavement* [my wife's death in February last]* I had been unable to do any entertaining. I asked Mr. Martin to have a cup of tea on Wednesday, the 26th October, 1921. At that time I had two men working in my garden, which had been allowed to get into a very bad state. Their names are MacGeorge, who was working in the garden, and Stokes, who was erecting a fowl house. They both live in Bear Street, Hay. I had no special reason for inviting Mr. Martin to tea other than I had not entertained him since his marriage, and at that time I was not entertaining on a very large scale. On the day in question Mr. Martin arrived at my house about 5 p.m. I had previously gone home to see that everything was in order. I took him round the garden and showed him various improvements that I proposed to make. We then entered the drawing-room, where tea had been laid out by my housekeeper, Miss Pearce. As far as I remember, the food was placed in three plates on a wicker stand (I *can trace* [remember] the wicker stand, as I have a more ornate one in brass, and my housekeeper had asked which I preferred). The food consisted of buttered scone, buttered currant loaf in slices, and bread and butter. I handed Mr. Martin some scone on a plate. He took some, and I also took some, which I ate, and I afterwards placed the dish of currant bread by his side on the table and asked him to help himself. I shall be able to ascertain by going to my house where the scone and *buttered bread* [currant] loaf were bought. I remember Mr. Martin saying that buttered loaf was a favourite dish of his, and I know that he ate heartily and cleared the dish. Afterwards I asked him to smoke, and I remember that he said he was off colour, and, instead of having a pipe, he would smoke a cigarette. At the time both Mr. Martin and I were working at high pressure on some sales of a Captain Hope, and this was probably the reason of his being *off* [below] par. Mr. Martin and I discussed general office organisation, and I remember telling him that I was understaffed. I also was *not* feeling the effects of hard work. It was light when we began tea, but it soon became necessary for me to light the gas.

* The words in italics are the deletions and those in square brackets the corrections made by Armstrong.

and as I did so the globe came off and fell, which caused it to break. Mr. Martin left about 6 p.m., and drove home in his own car. All the food which Martin consumed was prepared by Miss Pearce, and was waiting for us when we entered the drawing-room; and either she *and* [or] the maid brought the tea and hot water in when we had taken our seats. Miss Pearce had previously asked if the food (which was subsequently placed on the table) would be satisfactory, and I had said "Yes." The following morning I went to Mr. Martin's office to get various documents relating to Captain Hope's sale, which was to be completed on the 2nd November. It was a big property sale in which he was acting for several purchasers. I was told *that Mr.* by one of his clerks (I cannot remember which) that he had been taken ill. I think now that it was Preene, as I have a recollection of him saying that Dr. Hincks had been called and had said that he thought Mr. Martin was suffering from jaundice. Mr. Martin's illness was causing great inconvenience, as the completions were fixed for the following Wednesday, and there was a great deal to be done. I sent a message to Mr. Martin by one of his clerks (I do not remember which), and said that if I could assist in any possible way and he would authorise his clerks that I would carry the matter through if he were not well enough. The next thing that I remember was that, as he was not down at his office on Saturday, I called at his house on the Sunday morning after church. I saw Mrs. Martin, and she told me that he had been very sick, but was better, and would be down at his office on Monday. It was not necessary for Mr. Martin to accept my offer of assistance, as he was able to attend his office and carry through the completions by the stated date. After Mr. Martin's illness he told me that he had been very sick, and that he had had a thorough clean out. Prior to his illness I had chaffed him about his practice of motoring to and from his office, saying that if he did not take walking exercise he would be ill. I always walk to my office, not possessing a car. I am continually meeting Mr. Martin professionally, and he and his wife have a *standing* dinner invitation to my house when a date can be fixed. The first time I purchased arsenic was in 1914. *I think I have got the receipt in my garden book.* At this time I came across a recipe for weed-killer, consisting of caustic soda and arsenic, which was very much cheaper than the liquid weed-killer which *I* [my gardener] had previously been in the habit of purchasing. I therefore purchased arsenic and caustic soda from Mr. Davies, chemist, of Hay, and signed the book. I remember him telling me that the arsenic had to be mixed with charcoal, and he mixed it accordingly. I made the weed-killer at my house by boiling the caustic soda and arsenic in an old petrol tin. I think I put in all I purchased. It might have been in the proportion of equal parts of each, but I do not remember. I think Miss Pearce will remember the preparation. It was all

used in the garden as a weed-killer. I have always had considerable trouble with weeds on the path of my vegetable garden. The purchase of a lb. of arsenic in June, 1919, was for the same purpose, and was used in exactly the same way. The liquid and powder weed-killer were purchased [to my order] by Jay, of Castle Gardens, Hay (*my gardener*), who attended to my garden at that time *to my order*. I don't even know how much was purchased, and I never saw it. I believe it was kept in the stable. In January, 1921, I made a further purchase of $\frac{1}{4}$ lb. of arsenic at Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself. It was not a success, *and I* which explains why I have some left at my house. When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on. I remember talking to Mr. Taylor, the bank manager of Hay, respecting my recipe for weed-killer. I remember being pleased at being able to make my own weed-killer at a much cheaper rate than the prepared article, which after the war was very dear, and I could not afford it. This last preparation I carried out myself as before by boiling the arsenic with caustic soda in a petrol can. Although I have no motor car, I use petrol for a petrol gas installation. From the 2nd September to the 20th September, 1921 [as far as I can trace], I did not leave Hay, but on the 21st September, 1921, I went motoring with Mr. Lee, surveyor of taxes of Derby, who took myself and my son to Bath, where my son was returning to school. We returned on the Sunday following. I don't take chocolates myself, and have not purchased any of them since I bought a small box for my late wife in [August] 1920. These I bought in Hay, but I can't remember the shop. They were certainly not Fullers', which I was of the impression were not procurable *at* [in] Hay. During the period between the 2nd and 20th September, 1921, *while* I was in Hay transacting business at my office and residing at my house. I did not leave the town. I may have called on friends socially, but I do not remember. I am unable to throw any light upon the finding of arsenic in Mr. Martin's urine, or as to the cause of his illness after having tea with me on the 26th October, 1921. I did not touch the food he ate in any way, and partook myself of what was on the same dish. If arsenic got into the food, I cannot account for it being there. The cupboard where I keep the arsenic at my house contains boot-cleaning materials, and is unlocked. Nobody in the house, so far as I know, is aware of the presence of arsenic in the house. This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine. I have a medicine chest in *my* [a] bedroom. I make this statement quite voluntarily and without being questioned. H. Rowse Armstrong, 31st December, 1921."

Chief Inspector ALFRED CRUTCHETT—*examination continued*—After he had read it he signed it in my presence. I then said to him, "Mr. Weaver has something to say to you," and Mr. Weaver then cautioned him and formally arrested him on a charge of attempting to murder Mr. Martin by administering the arsenic to him on the 26th October, 1921. To that charge Mr. Armstrong said, "I am quite innocent." I then said to Mr. Armstrong, "I suggest that you empty your pockets and put the contents on to your desk, and that property we can take away with us and examine later. We are now going to search your office." He emptied his pockets on to a blotting pad on his desk. The whole of the property was then put by Superintendent Weaver into a piece of brown paper that we found in the room, and the brown paper was then put on to the desk, and I turned the sides over and put a hand blotter over it to keep it together. It was not tied. The ends were open. Mr. Weaver then searched the prisoner, and afterwards we examined the contents of his desk and the letters that were on the desk, and the cupboard on the back of the desk. After the prisoner had been searched I requested him to sit in the middle of the room on a chair in the centre. He was sitting on the chair while we were searching the desk. After we had examined the letters that were on his desk and the contents of his desk and the cupboard at the back of his desk Mr. Armstrong asked if he might sit at his desk and examine some business letters that were there. I had seen the contents of some of these letters, and, realising that they might need immediate attention, and having no desire to obstruct his business more than was necessary, I told him he might do so. I called in Sergeant Worthing and told him to sit on the opposite side of the desk to see that he did not interfere with anything else but business letters, which I pointed out to him, and I also told defendant that he was not to touch anything else but the letters. The superintendent and I then continued our search of the office, and after a few minutes I heard a cracking of paper. I immediately turned round and found the defendant had removed the blotter from the top of the property, had got the brown paper open, and was looking through some letters that were in the parcel. I said, "What are you doing there? I distinctly told you not to touch anything but business letters." I requested him to move from the desk, and he did so. Sergeant Worthing assured me that he had taken nothing out of the parcel, and I then suggested to Mr. Weaver that he should tie it up and put it in his pocket, which he did; and soon afterwards the prisoner was removed to the police station.

I saw the contents of his pockets on the 4th January. Sergeant Williams, the officer in charge at Hay Police Station, had them at that time. It was at Hay Police Station that I saw them. I examined the contents in the presence of

Chief Inspector Alfred Crutchett

Sergeant Sharp. Among the letters in the parcel I found a small packet containing a white powder. There was no rubber band on it then. (Shown exhibit No. 32)—That is the packet. It was not folded like that; it was folded as a chemist would fold teething powder. It was not wrapped in anything; it was among the letters. Upon discovering that I sent Sergeant Sharp, who also saw the package, to fetch Sergeant Williams. I showed the package to Sergeant Williams. I retained possession of that until I returned to London on about the 6th or 7th. I handed the package to Mr. Webster, the analyst, on the 6th at St. Mary's Hospital, Paddington. On the day of his arrest, the 31st December, after we left the office we went to Mayfield, Cusop, the prisoner's house. I there saw Miss Pearce, and took a statement from her, and also Mrs. Price, and we searched the house. In the library or study, in the cupboard on the left-hand side of the fireplace, I found a packet that has been produced containing the coloured arsenic. That is exhibit 33. I took possession of that, and handed it to Mr. Webster on the 6th January also, along with the other things I took possession of. In the same cupboard I found tins containing some substance. They were labelled caustic soda (tins Nos. 61 and 62). Upstairs in the medicine chest in a room, which I understand was the room in which Mrs. Armstrong died, I found a number of small phials of homœopathic medicine. I took possession of those, and they also were handed over to Mr. Webster. The medicine chest, I should think, is probably 2 feet by 18 inches, and it stands either on the mantelpiece or on the wall. It is up against the wall, I know. We also found one or two letters which have not been put in, and we took possession of one or two small books. We found three diaries on the prisoner. I think they are for 1919, 1920, and 1921. I have not carefully examined them. Mr. Weaver really examined the late Mrs. Armstrong's room, but I was there with him. There was no draft epitome or abstract of her first will to be found, or any will.

Cross-examined by Sir H. Curtis Bennett—The interview started on the 31st December about ten o'clock in the morning. The visit was a surprise one. Having made a statement, he also volunteered to give us any assistance he could. No obstacle was put in the way of our searching the office either by Major Armstrong or his clerks. There was no obstruction at all; we went about the business of the search quite unobstructed. (Shown jacket)—That looks like the jacket he was wearing at the time he was arrested. Everything that was turned out of his pockets was put into the brown paper packet. The business letters that he was allowed to deal with were letters that had been lying on his desk, the morning correspondence, which I had examined myself. There were also some business letters and private letters in his pockets. When we found the little packet which has been produced it was not inside an envelope. It had got caught up on an envelope by the paper being creased, but it was loose in

the pocket. With regard to the search at Mayfield, the first place we searched was the little study. We found the tins Nos. 61 and 62 there. They were in the cupboard on the left-hand side of the fireplace. The grey arsenic was right at the bottom of the cupboard, and the tins were on a shelf about half way up. I think there was also some wax and some rat powder in the cupboard—two packets of rat poison—and I think there was some polishing paste for silver plate. I was in the study the whole time the search was going on, but I was engaged for quite a considerable time taking statements from Miss Pearce and Mrs. Price. I do not recollect seeing a file marked "Garden." I did not at any time see in that file a recipe for weed-killer. We did not bring the file away with us. Major Armstrong, after the 31st December, did not have any opportunity of going back to Mayfield. On entering the small study, on the right-hand side opposite the window, there is a bureau with drawers at the bottom, a desk which comes down, and a shelf up above. I believe when you open the bureau there are two little wooden pillars in the middle, and between the two pillars there is a little cupboard door. I think Major Armstrong told us to get some keys from there for the purpose of opening the safe. It is in my mind that we found the keys in the drawer of the bureau. We pulled the drawer out and made a thorough search.

Would it surprise you to know that Mr. Matthews, with Dr. Ainslie, found that arsenic which I have produced here this afternoon at the back of that little drawer?—It would surprise me.

Mr. Justice Darling—Mr. Matthews and who else?

Cross-examination continued—First of all found by Mr. Matthews and Mr. Chivers, his managing clerk, left there, and subsequently seen by Dr. Ainslie as well. That would surprise you?—Yes, it would.

I suggest to you that there were actually traces of arsenic in that drawer as well, and they are there now?—Do you mean white powder?

White powder?—I would not say that. I did not notice anything. I would not say there were traces of white powder in that little drawer when I searched. All I can say is I examined that drawer and did not find white arsenic, and I did not see any traces of white arsenic. It was arsenic I was looking for, or weed-killer. Mr. Armstrong in his statement had told me that the remainder of the purchase of the January arsenic was coloured, and it was in his cupboard, and that that was the only poison he had anywhere. To make sure I made a thorough search, and I did not find any.

I am suggesting that that is exactly what you did not do, that you were searching for coloured arsenic, that you knew by the Act that arsenic had to be coloured, and that this trace of white powder which was in this drawer did not attract your atten-

tion?—Oh, yes, there were other things that caused me to look for white arsenic.

By Mr. JUSTICE DARLING—Could you have told, if you had found that packet, whether it was white or grey without looking at it?—No.

If you had found a packet like that would you have left it there?—Certainly not.

Simply because you did not know whether it was grey or white?—Certainly not.

Police Sergeant WALTER SHARP, examined by Mr. MICKLETHWAIT—I am a detective sergeant of Scotland Yard. I was present when the prisoner was arrested. I corroborate what Chief Inspector Crutchett and Deputy Chief Constable Weaver have said. On the 4th January I was with Chief Inspector Crutchett at Hay Police Station, and I saw Sergeant Williams hand him a brown paper parcel. I then went with him into the front room, and the parcel was opened in my presence. Chief Inspector Crutchett drew my attention to a small white paper packet which contained a small quantity of white powder. He then told me to fetch Sergeant Williams, which I did, and the packet was shown to him. Among the articles found on the prisoner were certain pocket books and little pocket diaries. I have examined them all. Exhibits Nos. 13, 14, and 15 are three of these articles. The entries are in Mr. Armstrong's handwriting.

Cross-examined by Sir H. CURTIS BENNETT—I notice that the 1920 diary finished a month or so before Mrs. Armstrong died. I also notice at the end of that diary, on the second last page, there is an entry, "three-quarters of a pint to 2 gallons of H_2O W. killer." I did not decipher it as that at the time, but that undoubtedly is what it is intended to be.

The Court adjourned.

Sixth Day—Saturday, 8th April, 1922.

Superintendent WEAVER, recalled, further examined by Mr. VACHELL—I assisted Mr. Crutchett in the search at Mayfield on the 31st December last. I remember the drawer in the centre of the bureau between the two pillars very well. I searched for keys in that drawer in the first instance. There was absolutely nothing in it besides the keys. There was no white powder in it; we should have paid particular attention to it if there had been. I only pulled it out to the slab that lets down for writing on. We felt the cavity where the drawer fitted in particularly. There was absolutely nothing in it. We also found certain files in that room. I do not remember a file labelled "Garden." I am positive I never saw any recipe for weed-killer in any file. It would have attracted my attention immediately if I had, because weed-killer had been mentioned so much.

Further cross-examined by Sir H. CURTIS BENNETT—I cannot swear that the recipe was not in the files. I have a recollection of coming across garden stuff in the files, but I did not take particular notice of them. There were three of us searching in that room. There were a good many drawers, shelves, books, &c., in the study. Every drawer, I am sure, was pulled out.

Further re-examined by the ATTORNEY-GENERAL—On Friday, 6th January, the house was locked up. The whole of the family left Mayfield. It was kept locked, and only opened when necessary until after the 18th February, when the committal for trial was, and the family went back again then. There were only Miss Pearce, Mrs. Price, and Major Armstrong's three children present when we were searching the house, but Mr. Phillips, Major Armstrong's confidential clerk, paid a visit once or twice during the afternoon and evening. We arrived at the house about 4 p.m., and left about a quarter to ten or ten o'clock. We were not keeping a watch on the house next day, the 1st January, nor on the 2nd. There was nobody from the police in charge of the house after the 31st. I only heard yesterday that something had been found in the bureau.

Do you believe it possible that that little packet, 2 ounces of arsenic, could have been in that drawer, or in the cavity behind it, at the time you searched?—Well, I say it is absolutely impossible. I do not think we left an inch of the bureau untouched.

HARRIET ELIZABETH PRICE, recalled, further examined by the ATTORNEY-GENERAL—I was at Mayfield on the night of 31st December when the police came to make a search. That was the day Mr. Armstrong was arrested. On Sunday morning, 1st January, I

went into the study to clean the room up. It would be about 10.30. I found two silver salt spoons that had apparently been dropped. They were in tissue paper. The usual place where they were kept was in the silver chest on the right-hand side of the fireplace in the study. This chest was usually kept locked. The key was kept in the middle drawer in the writing desk. I went to the drawer in the bureau for the key. I found the key there. I did not notice anything else whatever in the drawer besides the keys. There were a number of keys in the drawer. There was no white powder in the drawer. I pulled the drawer right out, and I could see into the space where the drawer had been. I did not notice anything there.

Further cross-examined by Sir H. Curtis Bennett—What I suggest to you is that the drawer where the keys were always kept is the drawer to the left of that little cupboard in the bureau?—No.

By Mr. Justice Darling—Are you certain where you found the key?—I am certain where I found the key. The drawer came right out when I pulled it. I put it back again. I was not interested in what was at the back of the drawer. I do say that standing up to the bureau and pulling out the drawer at the bottom of the middle cupboard you can see right to the back of it. I was first of all asked about whether I remembered the two silver spoons being in the fireplace this morning. It was Sergeant Sharp who asked me. Last night I told Chief Constable Weaver that it was impossible for the arsenic to be in the drawer. I have been at that silver cupboard three times altogether.

Further re-examined by the Attorney-General—I think the first occasion on which I went to the silver chest was the first party that Major Armstrong had after I went into his service on the 11th July, 1921. I knew the key was kept in that drawer, because I had seen it there. Major Armstrong was not present when I went to get the silver on that occasion.

[Evidence was then given by Herbert Skyrme, an architect and surveyor at Hereford, as to the making of plans of the bedroom at Mayfield.]

Edwin Alfred Taylor, examined by the Attorney-General—I reside at Lyndhurst, Kings Acre, Hereford. I was for ten years manager of the National Provincial Bank of England at the branch at Hay. I was manager during all 1921. I resigned on the 5th March of this year. I have a copy signed by me of the entries in the books of securities held under date of March, 1921. I produce that copy. It reads—" National Provincial Bank of England, in account with Major Herbert Rowse Armstrong, Mayfield, Cusop. Security held. Certificate for £450 5 per cent. War Stock. Certificates for £355 7s. 11d. 5 per cent. War Stock. Certificate for

£150 War Stock." It is all in the name of Katherine Mary Armstrong, and was lodged on the 17th March, 1921. The prisoner had had an account with the National Provincial Bank for some years prior to that. In 1915 the account was put in the name of both Mr. and Mrs. Armstrong. Upon Mrs. Armstrong's death the account, of course, passed into Mr. Armstrong's name only.

Cross-examined by Sir H. Curtis Bennett—The balance of Major Armstrong was sometimes in credit and sometimes a deficit, but usually in credit. When these particular securities I have referred to were lodged, Major Armstrong was abroad. They were lodged by his clerk, Mr. Phillips. At that time we had securities for Major Armstrong. It was not an unusual thing for people from time to time to deposit securities, and when the account was in credit to withdraw the securities. When these securities were withdrawn on the 22nd February by Mr. Matthews, on the instructions of Major Armstrong, the account was in credit.

Re-examined by the Attorney-General—From time to time, as I have said, securities were deposited. At the time the securities were deposited of which I speak in the certificate there was no sort of security. The account was overdrawn.

Further cross-examined by Sir H. Curtis Bennett—Major Armstrong was away at the time these were deposited, and the account was in debit. Shortly after Major Armstrong came back the account became in credit again. It then fluctuated until the 22nd February, when they were re-collected, the account then being in credit, and we having no claim on them.

Dr. Bernard Henry Spilsbury, examined by the Attorney-General—I am an M.B. of Oxford and lecturer on special pathology at St. Bartholomew's Hospital, London. I was present on the 2nd January of this year when the body of Mrs. Armstrong was exhumed in Cusop Churchyard. It was removed to a cottage close to the churchyard, and I made a post-mortem examination of it. Chief Detective Webb, Dr. Hincks, and Dr. Ainsley were also present. I placed some parts of the body in jars, and handed those jars to Mr. Webster. When the coffin was examined there were portions of soil adhering to it underneath. I removed some of it and placed it in a bottle, which was also handed to Mr. Webster. There was also some sawdust and wood shavings beneath the body in the coffin. I examined a portion of that, and placed it in a bottle, which was handed to Mr. Webster. There were sixteen jars in all containing various portions of the body, shavings, and earth that were handed to Mr. Webster. Generally the body was unusually well preserved after some ten months' burial, with the exception of the hands and feet and portions of the face, which showed advanced decomposition and partial destruction of the skin. The liver, the kidneys, the stomach, and the uterus or womb were remarkably well preserved. The condition of preser-

vation was fully explained by the presence of the amount of arsenic that was found in those parts on Mr. Webster's analysis. I examined the condition of the organs to see whether I could find any natural disease to account for the vomiting and diarrhœa and death, but I could find no evidence of natural disease. I examined the heart. It was rather smaller than usual; the cavities were all empty, and the lower cavities, the ventricles, were rather enlarged or dilated, and the walls were thin. That indicates that there must have been some dilation of the heart at the time of death, but there was apparently no disease of the heart valves. I should say no serious disease. As regards the liver, it was in its normal place, rather small, and greenish in colour, and soft. On subsequent microscopical examination I found marked indications of fatty disease of the liver, and I also found four gallstones in the gall bladder. I thought it as well to notice that, but I did not attach any particular importance to it. As regards the kidneys, they were rather small and discoloured, but well preserved. On subsequent microscopic examination I found marked evidence of fatty disease of the kidneys. I have had experience of cases of poison. I certainly think the condition in which I found the liver and kidneys would be consistent with some poison. I found no natural disease which would account for this condition of the liver and kidneys. Speaking from my experience, I would attribute the condition of the liver and kidneys, in the light of subsequent analysis, to the action of arsenic.

By Mr. Justice Darling—You considered the condition of the liver and kidneys attributable to the action of the arsenic?—To the action of the arsenic in poisonous doses.

It is a fact, is it not, that you have very, very large experience of poison cases?—A considerable experience; almost weekly, but certainly of monthly occurrence. I am frequently employed by the Home Office and by coroners to investigate cases of poisons.

Examination continued—In life that condition of the kidneys would have an effect on the urine. There would certainly be present albumen in the urine—a condition spoken of as albuminuria—and there would probably be other changes, in amount, and so on. I also examined the intestines. They were almost empty, dark in colour, and rather dry; but I found a small amount of fluid contents in one part of the small intestine, high up, known as the jejunum. The length of the intestine is from 18 to 20 feet; that is the small intestine. There is the small intestine and the large intestine. The small intestine is nearer the stomach; it is described as consisting of three parts, the second of which is the jejunum. The jejunum starts about 8 or 10 inches below the stomach, and passes below into the part known as the ileum. I removed the portion of the jejunum in which I found the liquid, and placed it along with its contents in a bottle, which was subsequently handed to Mr. Webster. I also found a collection of

fluid in the ileum and in the cæcum. That was three different collections. The first collection was found 3 or 4 feet below the level of the stomach, the second was near the lower end of the ileum, and would probably be 17 to 18 feet below the stomach. When I speak of so many feet below the stomach I am speaking of the length of the intestine. The last would only be a short distance below the second, a matter of 20 feet, or perhaps a little over, from the stomach. The rest of the large intestine was quite empty, and the other portions of the small intestine were empty. That pointed to some irritant condition during life which had brought about an unusual emptying of the intestines as the result of diarrhœa.

I do not know whether you can form any opinion as to the time it would take these liquids, which you found at these three points, to reach those points if they had been taken in first by the mouth?—Approximately the material found in the upper part of the small intestine would require from three to six hours; that is very approximate, of course. To reach that point the material in the lower part of the small intestine would require another few hours, perhaps up to ten hours, and I should say that in the commencement of the large intestine a period of perhaps twelve hours—in the cæcum, that is. That would be after the fluid was swallowed. (The witness marked the places where the three collections were found on a diagram.) (1) represents the jejunum, (2) the ileum, and (3) the cæcum. I have been doing medico-legal work for about fifteen years. I have been engaged in researches under the Home Office in particular for a number of years, for the greater part of that time. I have made examinations of bodies in poison cases, and am familiar with cases of arsenical poisoning—the effect of arsenic upon the organs of the body. In cases of arsenical poisoning, supposing you have food which contains some arsenic, the time during which the arsenic would traverse the body would vary somewhat in different circumstances, but it would be very rapid in the case of the passage of ordinary food, and would probably be evacuated, the most of it, within a period of twenty-four hours or a little more after the food was taken. It makes a difference whether it is taken in liquid form or solid form. It is quicker in liquid form; the onset of symptoms is earlier when it is taken in a fluid form.

Why do you say that if the food is taken with arsenic its passage is quicker than it would be if the food were passing in the ordinary course without any arsenic in it?—Because the irritant action of the arsenic leads to the more rapid passage of the contents of the stomach and intestines through the alimentary canal. The irritant action of arsenic is first exercised in the stomach, the part to which the poison first gains access. There is, first of all, pain and nausea, and later vomiting. It also produces inflammation of the lining membrane of the stomach, and

sometimes produces hæmorrhage into the stomach cavity, and occasionally small erosions. If you had an effusion of blood into the stomach caused by this irritant, and the person vomited, the vomit would be coloured by blood; sometimes one would see streaks of blood in the vomit. At other times it would be altered by the stomach juice, and the vomit would be a dark brown or a dirty brown. After the arsenic has been absorbed in the stomach and intestines and got into the blood, it would begin to affect the organs to which the blood is carried, the heart amongst them, and it would damage the heart and bring about dilatation of the heart and a quickened action of the heart. The dilatation of the heart, unless slight, would be likely to be accompanied by a murmur. As regards the kidneys, when the blood which has got arsenic in it passes into the kidneys, it would damage the kidneys in the way in which I found them damaged here—producing fatty disease and interfering with the function of the kidneys, producing changes in the urine, albuminuria, and other changes according to the amount of urine secreted. The functions of the kidneys generally are for the purpose of getting rid of the waste products of the activities of the body generally. The liver would be affected in the same way as the heart and kidneys; it would be damaged, and fatty disease would be the result, and interference with the work of that organ would also occur. I am quite familiar with Bright's disease. The condition of the kidneys in this case did not suggest Bright's disease. The condition was only one which I have described as fatty disease or fatty degeneration due to some form of poisoning—in this case arsenical poisoning.

By Mr. Justice Darling—I say that certainly this condition of the kidneys and the liver and the heart was due to arsenical poisoning.

Examination continued—Will you proceed in your own way about the intestine?—The poison when taken by the mouth would pass, or some portion of it would pass, from the stomach into the upper part of the intestine, and would there produce indications of its action—inflammation in the upper part of the intestines, the appearance gradually diminishing as we pass lower down until they may fade away altogether. The other change which will be found in the case of arsenical poisoning will be the empty condition of the large and small intestines as a result of the irritant action producing diarrhœa. In this particular case I found the empty condition to which I have referred, but I could not recognise any inflammation of the intestines on account of the post-mortem changes which had occurred that rendered it impossible to say whether they were present or not at the time of death. In a case of arsenical poisoning the passage of the food would be more rapid than under ordinary conditions, and, of course, it would be still more rapidly if the food taken was fluid and not solid. I have been in Court and I heard that during the time Mrs. Armstrong was at Barnwood Asylum she was given from 3rd October

to 4th November a tonic mixture containing 1/20th of a grain of arsenic three times a day. I have worked that out for the total of thirty-one days, and it amounts to between 4 and 5 grains. She was released on the 22nd January, so that that left part of November, all December, and twenty-two days in January, a total of seventy-nine days. I do not think that a tonic containing arsenic during that month of October and the first few days of November could have had any action upon the body and the organs such as I have described. Arsenic which was given medicinally would not have any poisonous action at the time it was given to produce the changes which I found, and that arsenic would have completely left the body long before she left the asylum on 22nd January, with the possible exception of some traces in the nails and in the hairs; it might be possible to obtain traces from there, but, apart from those, it would have completely disappeared. That arsenic taken medicinally would only have what is known as a tonic effect. That arsenic given in the form of a tonic with other ingredients could not have any poisoning effect upon the walls of the stomach or the ileum or the jejunum, or any of these things. By the time she left the asylum all traces would have disappeared from those organs. As regards the traces that might have been found in the hair or nails, they would have been extremely minute.

Why is it you might find a trace in the hair and nails for some time afterwards?—Because the structure of those tissues attracts and fixes arsenic, and as they grow slowly the portion which is formed at the time that the arsenic is being taken may attract arsenic, and it may lodge in those portions and remain until they are shed or cut. In the case of the hair it may soak into the hair perhaps from the secretions of the scalp.

If you took some arsenic on 4th November as an ingredient of a mixture, and the hair and nails are being grown in the body at that time, the hair and nails which appear afterwards show some traces of arsenic?—Yes, for a certain length of time.

By Mr. Justice Darling—Supposing arsenic medically administered had affected the hair, would it remain so affected until it was cut off?—Yes.

Examination continued—In the case of the nail, the piece of the nail which is being prepared to appear at the time the arsenic is taken might show some indication of arsenic; it is the only part which would, and, as the nail gradually grew out, that portion would grow out with it, and finally be cut off. After you had ceased taking arsenic there would be no trace in the further growth of the nail.

Is it, in your opinion, possible that this administration of arsenic in the mixture between October and the 4th November can have had any bearing at all in the arsenic which was in the body

which you examined after it was exhumed?—No, it is quite impossible.

We know that these exhibits were examined by Mr. Webster, and you know of the result of his examination, do you not?—I do.

In your opinion, at what time must a dose or doses of arsenic have been taken in order to find what Mr. Webster found in the organs which you gave to him?—From the amount of arsenic which was present in the small and large intestines it is clear that a large dose of arsenic must have been taken, I mean a poisonous dose, possibly a fatal dose, must have been taken certainly within twenty-four hours of death, and from the amount of arsenic which was found in the liver—over 2 grains—and from the disease which I found in the liver, it is clear that the poison must have been given in a number of large doses extending over a period, certainly of some days, probably not less than a week.

You have been in Court during the whole trial?—I have.

Have you heard Dr. Hincks's evidence as to the symptoms which Mrs. Armstrong displayed about the time when she was taken to Barnwood Asylum in August, 1920?—I have.

Have you formed any opinion as to what those symptoms must have been caused by?—I have.

Will you tell my lord and the jury what, in your opinion, was the cause of those symptoms?—She was, of course, suffering from mental disease, melancholia, but in addition the vomiting on the day of her admission, the presence of albumen in the urine, and the suppression of urine are consistent with an acute or sub-acute attack of arsenical poisoning, and the rapid disappearance of the albuminuria, within a week after the admission to the asylum, followed by the development of peripheral neuritis, point clearly to an acute toxæmia as the cause of these symptoms.

Can you attribute this symptom as likely to be caused by a particular poison?—They strengthen my view that the symptoms taken as a whole were due to poisoning by arsenic.

There is now one matter to which I want to call attention. In August, 1920, you did not mention the heart symptoms at that time. I do not know whether you attach any importance to what we were told were the heart symptoms in 1920 or not?—Yes, I do; and it is only by inadvertence I failed to refer to them. The rapid dilated heart and the murmur which was heard are fully accounted for in the same way—acute poisoning, such as arsenic.

Did you observe the evidence given by Dr. Hincks and Mr. Martin as to a sudden attack which Mr. Martin had on the 26th October, 1921, an attack of diarrhœa, vomiting, and other symptoms?—Yes, I did.

Are you able to form any opinion as to what was the cause of that, having regard to the facts that we know about it, including the result of the analysis of the urine?—Certainly.

In view of the presence of arsenic in the urine to the extent of

1/33rd of a grain, four days after the commencement of the illness, in some 15 or 16 ounces?—I forget the amount of urine.

One-thirty-third of a grain in 17½ ounces of urine?—The illness from which Mr. Martin suffered, in my opinion, was acute arsenical poisoning.

You refer specially to the 1/33rd of a grain of arsenic found in the 17½ ounces of urine. In your opinion, could you find any normal cause for that amount of arsenic to be found in the urine? —No.

Mr. Justice Darling—It would have had to be taken into the body in some way?—It would have had to enter the body some way, by the mouth or through the skin.

It would not be a by-product of the body?—No, it is not found in the urine in ordinary conditions—not the merest trace.

Cross-examined by Sir H. Curtis Bennett—In dealing with the small intestine in my post-mortem examination I worked downwards from the stomach, gradually opening up the intestine as I went down.

Except the two portions of fluid that you have spoken of that you found in the small intestine, do you say that the rest of the small intestine was absolutely dry, or that there was just a draining going on all the time?—There was no drain of fluid which would run away.

I do not suggest that; a drain of fluid which as you are gradually opening up the small intestine would gradually flow down?—No; there was a deposit on the inner surface of the intestine which one might have scraped off with a knife—nothing which would be likely to travel down the intestine. The cæcum is really the beginning of the large intestine. It is where the small intestine joins the large intestine and the passage becomes larger. There is a sort of little well, which is the cæcum. Everything which is going to be expelled goes into the cæcum. I found a considerable amount of fluid in the cæcum, but I cannot say the exact amount. It was certainly more than I found in the small intestine. Mr. Webster can give the actual weight.

The condition of emptiness of the small intestine and of the body generally would be due, or might be due, might it not, to one or two causes, either that the person who has died has had very little nourishment for some time, or, having had nourishment, that it has been got rid of owing to diarrhœa?—If it was merely the result of not having much nourishment for some time before death, I should still expect to find in the large intestine what is known as formed fæces; solid fæces. If it is due to diarrhœa, the material would be expelled from the large intestine, and it would be either empty or would contain fluid.

Supposing a person having, as this lady was, milk food and Benger's, and so on, and is vomiting a great deal, you would not expect to find any solid fæces formed?—If it was only a question

of vomiting, and as long as some was retained and passed down the intestine, I should expect to find a certain amount; not very much, but a certain amount.

I want to ask about the arsenic passing through the body. Am I right in saying the question of time during which arsenic would pass through the body varies a great deal in different cases?—Of course, yes.

You have given us a time which you think is, I suppose, the medium time?—An approximate average time.

But it does vary very much?—Yes, it must do so.

Of course, it varies, does it not, very much first of all as to whether the arsenic is taken with food or without?—Yes.

It also varies very much with whether the arsenic is taken in fluid form or in a more solid form which has to dissolve?—Yes, and also, of course, whether it is taken with or at the same time as solid food, or whether the food itself is fluid.

I do not want to go into detail in the matter at all, but am I right in saying that there are many cases, I dare say some known to you personally, but also reported cases, where large doses of arsenic have been taken four, five, six, or even seven days before death where you found a large quantity of arsenic remaining in the body after death?—Yes, there are, even as long a period, I think you said, as seven days.

Seven or eight days?—Occasionally, yes.

When I say in the body, I want to go a little more particularly into that. Are there not cases where a person has taken a large dose of arsenic six, seven, or eight days before death and you would find a quantity of arsenic absorbed in the liver?—Yes.

Where you still found traces of it in the cæcum?—Yes, certainly traces in the cæcum.

Everything can be discovered, I know, by Mr. Webster, however infinitesimal, but a real trace?—Yes.

Supposing a case where arsenic has been taken in a large dose six, seven, or eight days before death, would not you expect to find fatty degeneration of the liver and kidneys?—Yes, I should.

And very probably some signs of dilatation of the heart?—Oh, yes, certainly.

And during the period from the time of the large dose until death you would not be surprised, would you, to have more or less constant vomiting?—Well, if it were a period of six or seven days from the taking of a single dose, I should not expect the action on the stomach to continue severely all that time.

I quite agree. From time to time during the six or seven days would it be very extraordinary if vomiting did go on from time to time with remissions?—I should not expect so much remission as, if anything, a gradual diminution in the vomiting and an improvement in that symptom.

Dr Bernard H. Spilsbury

At any rate I may take it that you would expect for a period more or less constant vomiting?—Yes, at first.

And you would expect that vomiting to get less before death?—Yes.

May I put diarrhœa in the same category as vomiting, that the diarrhœa might cease for several hours, ten or twelve hours at a time?—The same applies to that rather later in the illness; the diarrhœa would probably diminish, and might cease from mere exhaustion some time before death.

That is a case where a large dose is taken where the person lives five, six, seven, or eight days; I am assuming some long period, I do not care whether it is five or eight days, where after death you find fatty degeneration of the liver and kidneys, dilatation of the heart, and you also find arsenic in the cæcum?—Yes.

And in the liver I think you said too?—Yes.

Therefore, it is quite clear that a person might take a large dose, a poisonous dose of arsenic, and live for a period of seven or eight days?—Yes, exceptionally, it may happen.

I am not suggesting it is a regular thing, but it is more than a possibility?—Certainly.

I have not got to search into something which happens only once in a century, or anything of that sort?—No.

It is well known?—Yes, cases are quoted.

I have some of them in case you wanted me to quote them. Let me take another case where a person has taken a large and poisonous dose at the same period, five, six, seven, or eight days before death; do you not in all cases where that has been done, where sickness and vomiting has gone on almost right up till the end—I am not suggesting right up to the end, up to the last twelve hours—but where there has been some remission of vomiting during the passage of the days, at the end of three or four days, then starting again without any fresh dose; a dose taken, say, upon a Monday, vomiting, sickness, and diarrhœa going on perhaps till the Thursday, then as easing up over the Friday and possibly Saturday, then coming on again, and death ensuing upon the Monday or Tuesday following?—I should not expect that as the result merely of the action of the arsenic, unless there was some other disease present which would give rise to vomiting of itself.

Would you say that that could not happen from the taking of a large and poisonous dose of arsenic?—No, but I say I should expect to find some other disease.

Am I right in saying that what sometimes happens when there is a remission is this, that the arsenic becomes encapsuled or encysted in the mucus?—That has been described, I think, in one case, but that was a rapidly fatal dose, as far as my recollection goes. I remember a case where a cyst of arsenic was found, but I think that is where a large dose of arsenic was taken, and it ended fatally within a very short time.

Mr. Justice Darling—Do you remember the name of the case?—No, but I could turn it up for you in a book on Toxicology.

Cross-examination continued—I remember a case in which a cyst of arsenic was found in the stomach. It would take some little time to turn it up, but, as far as my recollection goes, the patient died of acute arsenical poisoning unusually rapidly.

Meanwhile will you tell me if I am right in saying that the arsenic does not get dissolved, but gets encapsuled?—Encysted.

Encysted in the mucus of the stomach. That would cause a remission of symptoms, would it not, until that arsenic freed itself and became dissolved?—Yes, it might.

What I am suggesting is this—a large dose of arsenic, a poisonous dose, setting up the ordinary symptoms of diarrhœa, then a remission for a period of twenty-four or thirty-six hours, then a starting again of the vomiting. What you told me in answer to that question was that such a case would not be impossible, but you would expect to find some other disease present?—Yes; I think, in connection with the action of the mucus, that would tend to delay the onset of symptoms rather than produce a remission of them.

May you not get the arsenic to become encysted in the mucus after it has started to take action, some started to take action, the rest becoming encysted and therefore delaying action?—You might, but whether the action would be the action on the stomach or the action after absorption is very doubtful. It is very likely to be action after absorption of that part which is dissolved.

Might it be the other?—I should not like to exclude it entirely.

Then you would not like to exclude the case I have put of a patient taking a large poisonous dose of arsenic on Monday, suffering from vomiting, sickness, diarrhœa, and so on, on Tuesday, Wednesday, and Thursday, then remission, I do not care whether for twelve or twenty-four hours, but slight remission, and then coming on again?—I do not think I can agree to that—three days' sickness from a single dose and then a remission due to this. I do not think it would occur.

Two days?—I doubt that very much indeed.

I understood you to say you did agree with the symptoms I put to you, but you expected after death then to find some other cause for it as well as the arsenic?—Yes.

That you still say?—Yes.

Mr. Justice Darling—He said, I agree to two days' sickness after one dose, then remission.

The Witness—Then a remission of this period due to this condition of the mucus.

Cross-examination continued—You are putting now that the whole of the symptoms are due to arsenic in the answer to my lord?—Yes, of course I am.

But supposing a poisonous dose of arsenic and something else,

then what I have put to you would not be—I do not want to use too high a term—it might occur?—Yes.

By Mr. Justice Darling—What do you say might occur?—Under certain conditions of disease in the body a dose of arsenic might be followed by acute symptoms for a time and then a remission of symptoms, vomiting diminishing or ceasing, then later on a return of vomiting.

Under certain conditions of disease in the body, you postulate that?—Yes.

Cross-examination continued—What have you in your mind when you say that?—Such a condition as the pre-existence of chronic disease of the kidneys—Bright's disease.

Anything else have you in your mind?—That was an illustration that just occurred to me, I would not like to say there are not others.

Let me deal with that. Assuming for a moment that Mrs. Armstrong was not suffering from arsenical poisoning in August, 1920, there were undoubted symptoms, were there not, at that time of kidney disease?—There were symptoms of kidney damage, if I may use the term in that sense.

Am I not right in saying in kidney disease?—I think I prefer to use the term "damage" rather than the other.

I want to see if I understand it, if you do. Does it mean very much the same thing?—Not in my opinion.

I want you to leave out of your mind what you now know about the finding of arsenic and go back to August, 1920; Mrs. Armstrong undoubtedly suffering from acute melancholia, a woman who has suffered at that time five years, 1915 to 1920, with more or less bad rheumatism and occasional neuritis, and also a woman who at that time is suffering from some heart trouble?—I do not know that there is any evidence that she had some heart trouble previous to this period.

I am talking of August, 1920. Dr. Hincks's certificate of death certified that in February, 1921, she had suffered in his view—to be fair to him he says it is bound to be a certain amount of guesswork—from heart disease for twelve months?—That was his view at that time.

And he formed that view because of his examination in August, 1920?—Quite so. May I say that as the result of the post-mortem examination I think you will find he has altered his view as to heart disease.

Would what you found post-mortem do away with what Dr. Hincks said he heard, which I understood was a mitral systolic murmur?—No, it does not do away with it; it only explains it in a different way.

A mitral systolic murmur may be caused by rheumatism?—Yes, or it may be caused by dilatation of the heart.

That is why I want you to get out of your mind for the purpose of my question what was found in the body after death.

Assuming a person is suffering from rheumatism for about five years, and neuritis; is suffering from what Dr. Hincks thought she was suffering from, heart trouble as the result of rheumatism, a mitral systolic murmur in the heart in August, 1920; you find also albumen on examination; do you not think that that woman at that time may be suffering from kidney trouble—Bright's disease?—If you put it no further than that, yes; if we stop there only, I agree.

Suppose without the knowledge that arsenic was found afterwards——?—No, no.

What do you want to add to it?—The change which occurred so rapidly after she entered the asylum.

Getting rid of the peripheral neuritis?—First of all, the disappearance of the albumen within a week. That to my mind excludes Bright's disease as the cause of the albuminuria.

Am I not right in saying in kidney disease you do get from time to time relief from albuminuria?—Yes, you do, but it is not a sudden disappearance and a complete disappearance.

You see there is no evidence that any examination was made for albumen at all from the 29th August, a week after she went into that home, until she came out again?—I was certainly under the impression she was examined systematically.

The Attorney-General—I think my friend is wrong about that. Dr. Townsend told us on more than one occasion during this time, the autumn, examination was made; indeed, I think he said at some date late in November.

Cross-examination continued—You agree that a person may take a fatal dose of arsenic five, six, seven, or eight days before death and suffer for some time with sickness, vomiting, and possibly diarrhœa, and gradually sink and die. That is one thing that may happen?—Yes.

And that may happen, may it not, without there being any organic disease?—Yes.

Merely from the result of the fatal dose of arsenic which does not kill up to eight days?—That is so.

The other case which I put to you, with which I understand you to agree, is that a person may take a fatal dose of arsenic five, six, seven, or eight days before death, may suffer for a certain period of time, I care not how long, with vomiting, sickness, and diarrhœa, may then have a remission, and then vomiting may begin again, but then you would expect to find organic disease as well as arsenic present after death?—Yes.

And the organic disease which you would expect to find in that case—what you had in your mind—was kidney trouble—Bright's disease?—Not merely trouble with kidneys, but Bright's disease.

One more question upon the first of those cases that we were discussing. Do you know a book by a man named Wood, an

American?—I think I have referred to it once or twice, but I do not know the book well.

Am I right in saying that in very extreme cases, and only in very extreme cases, a person may live up till fourteen days after a fatal dose of arsenic?—It is conceivable, and I dare say cases have been recorded.

That is all I put, fourteen days. Would you agree that it is quite likely cases are reported to that effect?—I dare say; that is to say, under special conditions.

In such a case would the symptoms be intermittent; they could not go on continuously, could they, for fourteen days?—Not severe symptoms, no.

The symptoms would have to be severe, less severe, more severe, intermittent, and so on?—I should not like to use the term intermittent; I would rather say the symptoms would change in character in the course of the illness.

You have already told me that with regard to five, six, seven, or eight days, those are quite possible cases?—Certainly, yes.

I want to get that quite clear in case anything later on is said about them; they are not cases which are terribly infrequent; they are not the sort of case where you have to say, this is the one case in ten years?—Oh, no; they are not by any means common, but they are not by any means rare.

They are not by any means very infrequent?—No.

I may have misunderstood the evidence yesterday of Dr. Townsend, although I was listening very carefully to it. Do you draw a distinction between a supression of urine and retention of urine?—Oh, yes.

They are clearly different things, are they not?—Yes.

The evidence is that after Mrs. Armstrong was admitted to Barnwood urine was drawn off?—Yes, as soon as she entered.

And then that there was no further natural urine for twenty-four hours?—That is right.

Would not that be rather retention than suppression?—Either complete suppression or great reduction in the secretion of urine.

Am I not right in saying that a woman being taken to an asylum, realising that she has gone to an asylum and having had urine drawn off upon arrival at that asylum, it would not be a very extraordinary thing, would it, for her to retain urine for twenty-fours hours?—In the ordinary way it would be very unusual.

I agree in the ordinary way. I do not want you to take the ordinary woman going about; I am dealing with a woman who is suffering from acute melancholia and who is taken to an asylum suddenly in new surroundings, the surroundings of an asylum; may not that cause retention of urine?—She certainly might not pass urine for some time after entering, I agree, with the unusual surroundings, but I should not expect it to be retained for so

long as that; it would be impossible to do so, I think, in most cases.

Do you not know cases where in fact any woman's urine has been, under circumstances such as I am putting to you, retained for longer than twenty-four hours and where it has had to be drawn off, and very large quantities drawn off where it is?—I have known cases, yes.

As the result of her condition of mind and new surroundings?—Yes, it is possible, certainly.

And of no other disease?—Yes.

So it is possible that this was mere retention in that way?—Probably with diminished secretion. I grant that as an alternative, certainly.

I am a layman dealing with medical matters, but with suppression would you not expect to find, when the urine starts again, bleeding?—It depends a good deal on the cause of suppression.

That would be a very ordinary thing to find where there has been suppression?—If the suppression is due to acute Bright's disease, yes; but there are other causes of suppression in which you will not find that.

There is no evidence of bleeding in this case, so I will not worry about it?—If there had been it would have been noted.

The condition she suffered from may have been due to retention, not suppression?—Retention with reduced secretion; I think that is important.

Dr. Townsend, I think, expressed the view that retention might have been due to the vomiting, loss of fluid?—Yes, reduced secretion in fact; that would account for the reduced secretion.

You agree with what Dr. Townsend said about that; that might be the cause?—Yes, I do.

For how long after taking the fatal dose of arsenic would you expect to find arsenic in the urine?—It depends, of course, largely on the size of the dose and the amount which is retained. You are speaking of a non-fatal dose, are you?

What is the longest time that you know of where arsenic has been found in urine where a possibly fatal dose has been taken?—I think the longest in my experience is a matter of ten days, but I fancy that a period of three weeks would about cover a non-fatal dose.

Reported cases?—Yes.

Ten days in your own experience and three weeks as a possibility?—Yes.

I am not suggesting for one moment that the 3/20ths—about 1/7th—of a grain per day that Mrs. Armstrong had at Barnwood had anything to do with her death; I never suggested anything of the sort, but what I want to know is, supposing a person is suffering from arsenical poisoning, would the giving of 1/7th of a

grain a day aggravate that condition or not?—I do not think that it would do that, but it would tend to retard recovery.

I want you to think a little bit about that. The case here is that Mrs. Armstrong in August, 1920, when she entered that home, was suffering from the effects of arsenical poisoning?—Yes.

Assuming that that is correct—I am disputing it, but, assuming that is correct—would you not expect the giving of 1/7th of a grain every day for thirty-one days to such a person would aggravate the symptoms?—No, I should not. I think the course of the patient in the asylum shows that that was not so in this case, because the neuritis was improved.

Exactly, because I suggest to you that she was not suffering from arsenical poisoning; that is why that 1/7th of a grain for thirty-one days had no effect upon her?—I am afraid I do not agree with that.

By Mr. Justice Darling—You think it would not have had any effect any way?—Except that I think it might have retarded recovery somewhat.

Cross-examination continued—You will not help me any further than that; you will not go so far as to say that it might have brought out again symptoms if there had been arsenical poisoning before?—I certainly do not think that.

You think it might have retarded recovery; that is, assuming she was suffering from arsenical poisoning?—Yes.

Assuming she was not suffering from arsenical poisoning, that administration of 1/7th of a grain for thirty-one days would be likely to have a tonic effect upon her, would it?—Yes, it would.

You would find that her bodily conditions would improve; that is what it means, does it not?—Yes, the appetite would improve, the general bodily health would improve.

For instance, the use of the hands and feet, the neuritis generally, would tend to get better?—Yes.

Is not that what happened here?—Yes.

Now the arsenic which was found in Mr. Martin's urine; that was 1/33rd of a grain?—Yes.

About a fifth of what Mrs. Armstrong was being given quite properly each day at Barnwood Asylum?—Yes.

Great care has to be used in taking samples when you are going to test such things for poison and to find them in small quantities?—Yes.

Great care in the bottles used, and so on?—Of course, always.

One-thirty-third of a grain of arsenic is a very small quantity, is it not?—Yes, it is.

A very small quantity to see it on a piece of paper?—To see it in a dry form.

It is not very much more than a speck?—It is more than that.

It is a very small quantity indeed?—Yes.

That being such a very small quantity, very great care has to be used in the taking of that sample in every way?—Certainly.

I am not suggesting every care was not taken once it got into the hands of the officials, of course, but I mean right from its very inception. It must be essential that the bottle in no way could have had arsenic in it?—Yes.

There are many ways, are there not, in which arsenic may be properly found in a person's urine; I mean from a course of taking this medicine such as Mrs. Armstrong was taking?—Yes.

Are there not many things which are in general use which contain very small portions of arsenic, nothing like a fatal dose, but very small portions, 5 grains to an ounce, for instance?—I should say not in that amount. What do you mean by general use?

I had in my mind glucose?—You mean foodstuffs?

Is that not right?—I agree glucose has been prepared and has contained quite a large amount of arsenic.

Glucose does sometimes contain arsenic?—Yes.

And glucose, of course, the jury know is very much used for sweetening purposes?—Yes.

In jellies and things of that sort?—Yes, it may be used for that purpose.

I am going to deal with the medicines which Mr. Martin had. Am I right in saying that arsenic in very small quantities is often found as an impurity of bismuth?—It is found occasionally as an impurity of bismuth in very minute traces, but most bismuths supplied by chemists, wholesale and retail, are arsenic free.

I notice you say most; you mean most, do you?—Yes, I think the amount when it is present is almost infinitesimal.

Sulphate of magnesia—would that contain arsenic?—I doubt whether it would; again if provided for medicinal purposes.

Is that magnesium sulphate?—That is right.

Is that produced as a by-product of arsenical sulphuric acid?—Yes, it has been produced in that way.

Is not it a fact that in magnesium sulphate produced as a by-product of arsenical sulphuric acid, arsenic is present as arsenic and not as an arsenious compound?—Yes.

And a dose of this sort of about 1 ounce would contain 1/5th of a grain of arsenic acid?—Yes, it might be prepared in that way.

Is not it sometimes prepared in that way?—If it is prepared for medicinal use in that way it would be subsequently purified.

What arrangements are used generally for cleaning bottles?—All sorts of acids, sometimes nitric acid; I use a mixture of sulphuric and chromic acid.

Do those contain arsenic?—Crude sulphuric acid does, and sometimes it is difficult to get it completely free.

Then in acids used for cleaning bottles there may be a trace of arsenic?—Yes.

Peroxide of hydrogen; is arsenic a constant impurity of that?—Certainly not a constant one.

Is it an impurity of it?—It has been found in it.

That is what was said to have been in this bottle—peroxide of hydrogen?—Yes.

Artificial colouring which is used—that sometimes contains traces of arsenic, does it not—used for cooking purposes or used for colouring such things as port wine?—I hope not; I do not think so.

Is it usual in colouring?—Some pigments consist of an arsenical preparation, but they are not used in the preparation of food.

All I want is artificial colouring of either food or drink?—Certainly no arsenical preparation would ever be used; I mean properly, of course.

There may be a mistake like the case Dr. Hincks was talking about of arsenic in beer?—Quite.

You may get a large quantity in food?—There is always a possibility of accident.

You get large traces sometimes in food and drink which cause death?—It has been so, of course.

Like the arsenic in beer?—Yes.

By Mr. Justice Darling—How did it get in the beer?—That was from glucose which was used in making the beer. Since that time a departmental inquiry has led to regulations, which have rendered that almost impossible of recurrence.

Cross-examination continued—Like the regulation of always signing the poison book, but you get poison?—Those are in the hands of many people.

The last matter is the vomiting; the question of the colour of the vomit depends, does it not, a great deal in the early stages upon what people have been eating or drinking?—Obviously, the first vomit is the food.

I do not mean only the first vomit. The vomit for the first hour or two?—That again depends on how often you vomit in two or three hours.

But the first two or three hours may depend a great deal upon what you have been eating and drinking?—Yes.

And you may get quite naturally in the early stages of vomiting a dark vomit as a result of what you have eaten?—Yes.

Nothing to do with blood at all?—Yes.

When you get blood-stained vomit, that usually is in the later stages, is it not, after there has been considerable straining?—Are you speaking of arsenical poisoning?

No; of ordinary vomiting?—It is not common to get blood-stained vomit as a result of ordinary conditions.

You do sometimes, very violent seasickness, for instance?—You may, if it is very severe.

Very severe sickness will give blood-stained vomiting?—It is possible.

Would the natural thing be for the vomit to be lighter and lighter as time went on?—No, it might become dark from the presence of a large excess of bile.

And eventually do you generally get it light? In the ordinary case, of course, vomiting will come to an end when the stomach is empty; you have retching without any appreciable amount of vomit?—Perhaps mucus will come up.

Is not the usual thing in vomiting that that usually becomes lighter?—What there is will become watery in appearance.

Watery and light?—Yes.

Supposing a person is suffering from a serious bilious attack, a bad bilious attack; is not it common to have offensive vomiting in the early stages from that?—It might be offensive, certainly; again it would depend partly on the nature of the food.

And partly how bilious you were, I suppose?—Yes.

There is nothing in itself, is there, in the fact of vomit being offensive to smell at the start; I suggest it is quite an ordinary thing to happen in a bad bilious attack?—Yes.

Re-examined by the Attorney-General—The twenty-four hours I referred to as being the time that food with arsenic in it would take to pass through the body had reference to the passage through the body to the rectum. I include in that the liver and the kidneys as well as the intestines, and so on. I would not expect that all traces of arsenic had passed away from the organs in twenty-four hours. I think I said already that the period of three weeks would probably elapse before it disappeared from the body.

My learned friend has been putting to you some cases in which he suggests that there might be a poisonous dose taken and the person live for some seven or eight days after. In the case of a poisonous dose taken and sickness in the two or three following days, and then a remission of the symptoms, and then further activity afterwards, I think your answer was that you said that in certain conditions of disease in the body that might be so?—Yes.

But I want to understand, in answering my learned friend on that, they are conditions you postulate on which you make your answer?—Certainly, any pre-existing disease.

Supposing a perfectly healthy man or woman has taken a poisonous dose, would it be possible to have, as suggested by my learned friend, sickness for two or three days, then a remission, and then a further activity of symptoms again where there is no disease?—Not a return of the vomiting, but in those two or three days the poison would pass from the stomach down the intestines and gradually disappear from the alimentary canal, and the effects would pass off, and the effects then would be more from action on the heart and kidneys.

Do you think the suggestion made by my learned friend is a possible explanation of what happened in the case of Mrs. Armstrong on 21st February?—Her fatal illness?

Dr Bernard H. Spilsbury

Yes?—No, certainly it would not be the case. The post-mortem examination showed only a fatty disease of the liver and kidneys, fully accounted for by arsenical poisoning, and no previous existing disease such as would have accounted for such remission of symptoms and then a relapse.

My learned friend put the suggestions of a large amount of arsenic being taken and being in a capsule or encysted. Explain what either of those words means?—It means that when arsenic is taken in a solid form it may occasionally produce irritation of the stomach and form a large amount of ropy mucus which covers round the arsenic, but in that way the action of the arsenic would be delayed, and the symptoms. Mr. Webster found over 2 grains of arsenic in the liver.

Does that throw any light on your opinion of whether or not the arsenic taken by Mrs. Armstrong was encysted or not?—It clearly shows that it could not have been, because there must have been very considerable absorption, and there is no delay in absorption for that to have occurred, and no encysted arsenic was found in the stomach at the time of death.

By Mr. Justice Darling—There would have been active absorption of the arsenic from the stomach and intestines.

Re-examination continued—Would that have been possible so as to accumulate over 2 grains in the liver if this arsenic had been encysted?—No, it could not be in two places. It must be in either one or the other.

Supposing a dose of 3 grains is taken, or let us say 3½ grains, would it be possible for some portion of that to be encysted, and yet to find a large quantity in the liver or not?—Either it is encysted in bulk or it is not. The fact that so large an amount was in the liver, the fact of so much disease in the liver resulting from absorption, shows clearly that it must have been absorbed readily and some time before death, as regards some part of it at any rate.

I want to see whether one can separate that. A large portion of the arsenic, could that be taken into the liver and appear as encysted or not?—No, I do not think that could be so. As I have said already, I think I can make it clear that if encysting was going to occur it would occur soon after the poison was taken, and not later. The encysting would take place in the stomach before it left the stomach.

My learned friend put to you this case—the case of arsenic taken, a remission of symptoms; then he put as conceivable that the person might live as long as fourteen days. And I think you said, "Yes, under certain conditions"?—Yes.

And I think you said, assuming certain conditions as to previous disease?—I was assuming that rather in connection with other conditions.

Then will you put it in your own words with regard to this

case, whether such a hypothesis has anything whatever to do with the case—living for fourteen days after the arsenic has been taken?—A person who is suffering from serious disease in almost any region, the heart, liver, or kidneys, or who is old and feeble, may take a dose of arsenic which probably would not be fatal to a healthy person and suffer severely from the effects of it, and subsequently die, while the arsenic had for the most part left the body. Little or no arsenic might be found in the body under those conditions, and nevertheless the poison was the main factor in causing death. I examined the liver and kidneys in this case. Such a hypothesis has no bearing whatever upon the death of Mrs. Armstrong. There was no such remission or change of symptoms in this case that I have heard of such as I have been talking of in my answers in cross-examination. In view of the quantity of arsenic found in Mrs. Armstrong's body, I certainly do not think that in her case a late or postponed death after having the arsenic was possible. The large amount present, as I have said already, in the intestines also shows that a large dose was taken within twenty-four hours of death; and apparently there had been previous doses to account for her illness. A large, possibly fatal, dose was taken within twenty-four hours of her death.

By Mr. Justice Darling—Can you say within what time?—From the analysis I can only say other doses were taken recently—certainly for some days.

Re-examination continued—And finally within the last twenty-four hours?—A possibly fatal dose.

By Mr. Justice Darling—Tell me what bearing this has. You have just dealt with the special case put by Sir Henry?—Such a delayed case following a substantial dose of arsenic would have had time to disappear in most cases from the body.

Then it comes to this, does it not, that it does not come within the suppositious case put to you by Sir Henry?—That is so.

Re-examination continued—Let me put it in rather a different way. In such a case as Sir Henry has suggested, if there were a remission of symptoms, and recurrence of symptoms, would or would not the findings upon the analysis and analytical findings be such as were found in this case, or different?—The findings in this case quite well account for any change in the conditions.

That is not quite what I put. The case Sir Henry put—the case of remission and recurrence of symptoms?—Following a single dose?

Yes; would the analysis of the organs and conditions of the body be such as you got in this case, or would they be different?—No, they would be quite different.

Is there any doubt about that?—No, I say the arsenic would disappear entirely, quite apart from other changes. I know that Mrs. Armstrong did not pass water for twenty-four hours after

entering the asylum except a certain quantity drawn off for testing purposes by a catheter. I would not expect the fact that she had gone into an asylum, or anything of that sort, to cause retention of the urine, except such retention as may occur from being in a strange place and not knowing where to go. There may be voluntary retention for a time.

Sir Henry does not suggest that the medicine she took affected her death, but he suggests the medicine she took might affect her progress towards getting better. I am not quite sure that I follow your view about that medicine given on October, if it had any effect on her either one way or the other?—I think it probably acted as a check to her recovery, and I cannot exclude the possibility that it delayed disappearance of the neuritis, assuming the neuritis was arsenical neuritis.

By that time I think the other symptoms, the vomiting and diarrhœa, the rapid action of the heart, and the albuminuria had all cleared away?—Yes.

And was the neuritis all that was left for it to act or not to act upon?—Yes, it was. I heard the evidence about Mrs. Armstrong's condition on the 25th January when seen by Dr. Hincks after coming out, and then on the 6th and 11th February, and then on the 16th and 17th, and so on, to the date of her death.

Do you think those symptoms point to a fresh dose of arsenic or a dose of arsenic, or to a remission of symptoms, between the date of the 11th February, and the date of her death?—The acute symptoms, I think, commenced on the 16th. From that date onwards the symptoms and the post-mortem examination result point to the giving of a large dose of arsenic, and the reappearance of the peripheral neuritis indicate small doses of arsenic.

By Mr. Justice Darling—They point to fresh doses of arsenic?—A number of poisonous doses of arsenic between the 16th and her death.

Re-examination continued—A reappearance of the peripheral neuritis was found to exist on the 11th.

Does the recurrence of that peripheral neuritis on the 11th point to any dose of arsenic being given before that time?—Oh, certainly, in small doses, not to produce acute symptoms, but poisonous doses which would gradually give rise to a recurrence of neuritis. I should say at least a week or ten days before the 11th February. The quantity of 1/33rd of a grain found in Mr. Martin's urine was a great deal more than a trace. There is no difficulty for an analyst to find it.

My learned friend put to you a number of cases in which there was a possible case of some arsenic to be found in various substances he referred to. I think this bottle (produced) had been used for peroxide of hydrogen?—Yes.

If you were to choose a bottle to be free of arsenic traces, would a duly qualified chemist choose a bottle used for peroxide of

hydrogen; would that be suitable or not?—Yes, particularly suitable, because peroxide cleanses any bottle very efficiently of any trace of arsenic, and the mere washing it with water would completely remove such a trace.

Supposing you had to choose from poison bottles on a shelf, and you wanted to find a bottle particularly free from traces of arsenic, would you or would you not choose one which had contained peroxide of hydrogen?—I doubt if I could select a better one.

Further cross-examined by Sir H. Curtis Bennett—I cannot agree to the proposition that there is considerable migration in the body in relation to the place in which you would find arsenic. such as, for instance, from the liver into the cæcum, after death.

I refer you to Witthaus's work on "Toxicology," 1911, page 539—"Inferences as to the distribution which existed at death, drawn from such analyses, are, we believe, entirely unreliable, as it is impossible in the present condition of our knowledge to form any adequate idea of the degree to which it has been subsequently modified by post-mortem migration"?—No, I disagree with that.

By Mr. Justice Darling—Read further on; it says, "That such post-mortem distribution occurs with arsenic introduced into the cadaver after death cannot be questioned; and if arsenic introduced during life does not travel from one tissue to another after death, it is because it has formed an insoluble compound with the constituents of the tissues, a supposition in favour of which there is little evidence and against which the rapid elimination of arsenic during life militates strongly." Do you agree with that?—No, my lord, I do not. I think that passage is based entirely on erroneous inferences. Of course, if the body putrifies and the organs become fluid or semi-fluid, then the arsenic would pass in a fluid condition from one part to another.

Then the arsenic would move about with it?—Yes.

By Sir H. Curtis Bennett—And any liquid in the body would have the effect of taking the arsenic not already absorbed to different portions of the body?—If there was putrefaction.

No, without that—you say in fluid in the cæcum this arsenic was found?—Yes.

That may migrate, may it not, after death?—If there were fluid in the peritoneal cavity it is possible that a migration of a certain amount of arsenic might take place from one part to another.

Further re-examined by the Attorney-General—I am sorry I must put a question on this. I think you said something about the peritoneal cavity?—Yes.

That is outside the bowels, is it not?—The cavity in which the bowel lies, and occasionally at the time of death a watery fluid is found in that cavity, but none was found in this case.

Yes, but keep your mind, please, on the channel formed by the bowel, by the intestine?—Yes.

What do you say as to migration down this channel?—No migration to any appreciable extent would occur after death, but if you got putrefaction, so that the wall of the bowel gave way, then, of course, the contents of the bowel would escape into the cavity and spread all over the abdomen. The intestines lie loose in the peritoneal cavity, and the pipe, so to speak, may break, and you get a leak from it into the peritoneal cavity. As a matter of fact, in this case the wall of the bowel was intact.

And, lastly, paying every tribute of respect to Dr. Witthaus's writing in 1911, have you during the course of the last ten or eleven years since that book was published had the opportunity of making examinations of dead bodies, may I say, by the score, since that time?—I think I may say almost by the thousand.

And without undue modesty, might you say, have your researches during that period contributed to advancing knowledge in that ten years?—I hope so.

Has there been anybody who has had a larger opportunity from his experience and examinations of forming an opinion on this subject?—There have been many, but I do not know that many go into toxicological cases.

By Mr. Justice Darling—I saw the body of Mrs. Armstrong. It was very well preserved. I think that was entirely due to the arsenic.

Did you see any signs whatsoever which would lead you to think that that arsenic which you found in her liver had migrated from somewhere else?—No, the only change that occurred was that a certain amount of fluid had drained away from the body into the coffin, and arsenic, of course, would be in that. I took up some sawdust and wood shavings from the bottom of the coffin and they were submitted to Mr. Webster.

As to this theory of migration of Dr. Witthaus—did you see anything in this particular case that would lead you to think what you found in the liver had migrated from somewhere else?—No, impossible, my lord.

John Webster, examined by the Attorney-General—I am Senior Official Analyst to the Home Office, and a Fellow of the Institute of Chemistry. I am also pathological chemist at St. Mary's Hospital. I have for a long period of years had experience in making analyses. I have had twenty-two years' experience of toxicological investigation. During that time I have made a number of analyses for Dr. Spilsbury, and I have also worked for Sir William Willcox. In November, 1921, I received a box containing a bottle of urine. When I received the bottle it was corked and sealed. On the 3rd January of this year I also

received sixteen jars from Dr. Spilsbury. I analysed the contents of the bottle and also the contents of the sixteen jars. Fourteen of the jars contained portions of a body, and the others contained sawdust and shavings, and some soil. My report is as follows:—On 3rd January, 1922, Dr. Bernard H. Spilsbury handed to me sixteen glass jars. I marked these 1 to 16 respectively. (1) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Stomach wall." This contained a stomach, which weighed 2¼ ounces. (2) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Stomach contents." This contained the stomach contents, which weighed ½ ounce. (3) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Portion of jejunum and contents (smaller piece). Portion of ileum and contents (larger piece)."

Were they separated sufficiently for you to keep them apart?—They were. This contained jejunum and contents, which weighed ½ ounce, and ileum and contents, which weighed 2 ounces. (4) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Cæcum and asc. colon and contents." This contained a cæcum and ascending colon with contents, which weighed 3¼ ounces. (5) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Liver." This contained a liver, which weighed 27¼ ounces. (6) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Spleen." This contained a spleen, which weighed ¾ ounce. (7) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Both kidneys." This contained two kidneys, each weighing 2¼ ounces. (8) This was labelled "*Re* K. M. Armstrong (deceased), P.M. examination 3/1/22. Left lung and heart." This contained a lung weighing 5½ ounces, and a heart weighing 4¼ ounces. (9) This was labelled "*Re* K. M. Armstrong (deceased), P. M. examination 3/1/22. Fluid from pleural cavities." This fluid weighed 8¼ ounces. (10) contained a portion of the brain, which weighed 14 ounces. (11) is labelled "Re K. M. Armstrong, deceased, P.M. examination 3/1/22. Bone from left femur. Skin from left thigh. Muscles back of left thigh." The bone weighed 4 ounces, the skin 3¼ ounces, and the muscle 3½ ounces. (12) was labelled "Re K. M. Armstrong, deceased, P.M. examination 3/1/22. Hair from head." The hair weighed 3¾ ounces. With regard to (13), the eight finger nails weighed 1/17th of an ounce, and (14) the ten toe nails 1/16th of an ounce. (15) is wood shavings and sawdust taken from coffin, and it weighs 6¾ ounces. (16) is turf and soil from the bottom of the grave. I examined the contents of all those jars. I tested them to see if arsenic was in them, with the result that I found arsenic present in all the organs, and in the fluids from the body. I have prepared a table of the arsenic I found. That table reads—"The amounts of arsenic found by me in the various organs were as follows (calculated

as arsenious oxide as 0):—(1) Stomach, 2.5 milligrams; (2) stomach contents, 2.0 milligrams; (3) jejunum and contents, 1.6 milligrams; ileum and contents, 9.1 milligrams; (4) cæcum, ascending colon and contents, 37.6 milligrams." That means a little over half a grain. There are 65 milligrams in a grain. In the liver I found 138.0. That is over two grains; it is 2.12. In the spleen I found one milligram. In both kidneys I found 13.2 milligrams. That is just over one-fifth of a grain. In the left lung I found .5 milligrams, and in the heart, .6. In the fluid from pleural cavities, .9; and in a portion of the brain, .1. In the bone from the left femur I found .01 of a milligram; in the skin from left thigh, .25; in the muscles from back to left thigh, .21; in the hair from the head, .54; in the finger nails, .06; and in the toe nails, .03—making a total of 208.20 milligrams, or equal to 3¼ grains. It is 3.2 grains, which practically means 3¼ grains. Those were all the portions of the body submitted to me. I found arsenic as described in that table. In the wood shavings and the sawdust submitted to me I found .26 of a milligram; and in the turf and soil from the bottom of the grave I found .35 of a milligram. That is to say, in those two I found about 1/100th of a grain. In No. 4, the cæcum, the ascending colon and contents, I found a trace of bismuth. In No. 5, the liver, I found a substance which gave faint reactions suggestive of morphine or something of that sort. I have for a period of years made a great number of analyses of the organs of dead bodies. During the course of a year I will make analyses of the organs of thirty or forty dead bodies—perhaps sometimes more and sometimes less. For the past ten years, I should think I have made thirty or forty complete analyses each year. That would mean some 300 or 400 bodies. In all poison cases arsenic is always carefully tested for. Quite apart from whether or not it is a suggestive poisonous dose, I always analyse for arsenic, so that not only in cases which are attributable to arsenic but in all poison cases I test for arsenic. The 300 or 400 bodies that I have referred to were all tested practically for arsenic.

Have you ever known in your experience of a tested body in which you have found a larger quantity of arsenic than you did in the organs submitted to you from Mrs. Armstrong's body?—No, this is the largest amount of arsenic I have found in any case of arsenical poisoning. I have never in my experience found a larger quantity of arsenic in the organs of the body I have tested in this way. I do not have the jars present in court; they are still at St. Mary's Hospital. I have here with me a little tube which shows the equivalent to the total amount of arsenic found in the organs, namely, 208 milligrams.

By Mr. Justice Darling—That is the amount which I actually found in the body. The amount the body must have taken must have been very much larger.

Evidence for Prosecution.

John Webster

Examination continued—From your experience you can tell me whether that 3.21 grains would be a fatal dose?—Yes, 2 grains is a possible fatal dose. I have 2 grains of arsenic here. That represents the amount found in the liver alone. I have given so far the amount of arsenic I found in the specimens submitted to me. I also found traces of arsenic in the muscles and skin.

I want you to tell me this—from your experience—if the whole of the body had been submitted to you, do you think you would have found even more arsenic?—Undoubtedly I do.

In your experience have you ever found arsenic in all the organs such as you found here—the kidneys, the liver, the ileum, the cæcum, and so on—arsenic in all the organs, except in a case of arsenical poisoning?—No, I have not. (Shown exhibit containing Mr. Martin's urine.) I have tested that urine and I found arsenic present. I found 1/33rd of a grain in the amount of urine sent to me, which was 17½ ounces. It is quite easy to estimate that quantity.

Is that what you call a mere trace, or is it a measurable quantity?—No, it is a good deal more than a trace; it is an appreciable quantity.

Can you measure that with certainty?—Yes, I can estimate it with certainty. The tests I applied are accurate tests. I also made an examination of a number of articles sent to me in a hamper by Chief Inspector Crutchett. In an envelope found on the prisoner's person, exhibit No. 32, there was a packet containing white powder. I examined that powder. I found that that little packet contained 3¾ grains of white arsenic. I examined, secondly, a brown paper packet labelled "arsenic," and I found it contained nearly three ounces of grey powder, which I found to be arsenic coloured with a little charcoal. That is exhibit No. 33. The arsenic in that case is mixed with charcoal according to the statute under which it is sold. I examined the contents of the bottle, exhibit No. 26, and I found it contained one fluid ounce of a dark brown liquid, which had the odour of paraffin, and it was found to be a strong alkaline solution of arsenic. I also examined the cognac bottle, marked "Poison—weed-killer." I found that it contained about one-third of an ounce of yellowish brown liquid, which was a strong alkaline solution of arsenic. In the hamper there were a number of other empty bottles of homœopathic medicines. I tested the contents of a number of those bottles. Exhibits Nos. 37 and 38 were the only two bottles that contained arsenic, with the exception of those already mentioned. Taking No. 37 first, that is labelled "Arsen. alb. 3X." I tested the contents of that bottle, and I found it contained 12.5 milligrams of arsenic in one fluid ounce.

By Mr. Justice Darling—It would take fifteen of those bottles to contain three grains. One would have to take ten of them to take a fatal dose.

Examination continued—It is made up in alcohol.

John Webster

By Mr. Justice Darling—They only take two or three drops of that homœopathic medicine at a time, I think. A dose for an adult would be two pilules or two drops of the tincture.

Examination continued—Exhibit No. 38 says, "Arsenicum Album 12." I tested that also, and I found it contained 5.6 milligrams in 11 ounces. That makes three grains. I have made a great number of analyses to see if I could find arsenic in food.

As I understand it, somebody or other did give Mrs. Armstrong arsenic?

Sir H. Curtis Bennett—Or that she took it.

Examination continued—I have tested glucose from time to time. I remember that there was considerable difficulty arose about twenty years ago owing to glucose having been prepared with sulphuric acid and some arsenic in it. I have tested glucose since that time. At present one does not find anything like a serious quantity of arsenic in it. There is no arsenic in sulphate of magnesia. There is no possible contamination of arsenic in peroxide of hydrogen. A bottle that had contained peroxide of hydrogen would be an extremely good bottle to choose, because hydrogen peroxide itself would clean the bottle very well. You could not choose a better bottle after having rinsed it out. I should not expect to find any traceable quantity in peroxide of hydrogen. I have from time to time given evidence as to the results of my analyses for the purpose of testing foods and drugs. I have had them submitted to me for analyses over a period of years. I have had considerable experience in testing foods and drugs. In my experience one would not find arsenic in urine, unless the arsenic had been actually administered (or taken) in a quantity of 1/33rd to the patient whose urine was being tested. Also, in my experience of testing the organs and portions of bodies, you do not find arsenic in them unless it has been administered. You could not in the course of decomposition have arsenic produced in the body.

Cross-examined by Sir H. Curtis Bennett—I have five matters to deal with. You were asked if you would find arsenic in urine unless it was administered or taken, or is in the bottle or vessel into which it was put before you tested it?—Yes.

You have to add that?—Yes, of course.

In glucose you say you do not generally find any arsenic. You sometimes do, do you not?—In minute traces.

Peroxide of hydrogen—am I right in saying that arsenic is one of the generally occurring impurities of peroxide of hydrogen?—No, I should not expect to find it.

I do not ask you if you expect to find it, but am I right in saying that you might find it?—Yes.

You may find traces of arsenic in peroxide in minute quantities in all those drugs, but there is a limit laid down. The two bottles,

the brandy bottle and the black bottle, 35 and 36, both contain weed-killer, to put it into ordinary English?—Yes.

One other thing. When you were making your analysis did you take only a portion, say, of the whole liver and multiply it, or did you take the whole liver?—I did not take the whole liver. I always reserve a portion in case of another analysis being required.

What did you take?—A little under one-third.

Did you test it in two ways?—I did.

You took two separate pieces for testing?—Yes, but in portions. I actually weighed the arsenic. I took it from various portions of the liver.

Was it taken from portions?—From portions all over.

And does that apply to all the rest of your tests?—Yes.

Taken from portions and then multiplied to get the different amounts in the different organs?—That is so.

Re-examined by the Attorney-General—I took between one-third and one-fourth of the liver first, and I found an aliquot portion of arsenic. I then made another test of another portion. In the portions I tested I found 32 milligrams. I took two portions to find whether there was arsenic in both portions, but the other portion was done by a different method in order to give a cross test, and the two results agreed absolutely. That is the way I have tested for years. The test is a reliable one. 1/33rd of a grain is certainly not a minute trace. In my opinion 1/33rd of a grain could not be introduced by a mere impurity of peroxide hydrogen in the bottle before.

Sir William Henry Willcox, examined by the Attorney-General—I am a Knight Commander of the Indian Empire, a Companion of the Bath, and Commander of the Order of St. Micheal and St. George. I am an M.D. of London, a Fellow of the College of Physicians, London, and Medical Adviser to the Home Office. I am also physician to St. Mary's Hospital, and examiner in forensic medicine in Manchester University. I have had a large experience in cases of arsenical and other poisoning, extending over about eighteen years. I have been engaged constantly in cases where it has been suggested that death was due to poisoning, and in particular I have had a number of arsenical cases. I have considered the evidence that has been given by Dr. Hincks and Dr. Townsend upon the condition of Mrs. Armstrong before and at the time of her removal to the asylum. I have been in Court the whole time. I have also heard the evidence given by Dr. Spilsbury and Mr. Webster. I have paid particular attention as to Dr. Hincks's attendance on Mrs. Armstrong during the year 1919 from May to August. I also noted that he attended her little girl on the 1st August, 1920.

From hearing the evidence given with regard to Mrs. Arm-

strong's illness in 1919, when she was suffering from rheumatism, will you tell my lord and the jury what your view of her condition at that time is, and of the rheumatism from which she was suffering in 1919?—In 1919 it was clear that she was suffering from rheumatic symptoms; the neuritis was a localised neuritis such as occurs in rheumatic conditions; it was clearly not the peripheral neuritis or, as it is sometimes called, multiple neuritis, which occurs in arsenical poisoning, and which occurred later in this case.

Why do you say that?—Because there were no definite symptoms or signs in both arms and both legs, but there was a localised neuritis in one arm and leg; there was a swelling of one wrist joint.

In view of the condition that you have heard described of Mrs. Armstrong in 1919, do you think that the rheumatism from which she suffered could have caused what has been termed auto-intoxication?—It is rather the other way round. Auto-intoxication is a term which means poisoning from the body itself; we all suffer from it to some extent probably; the rheumatism was an evidence of some slight auto-intoxication at that time, but nothing serious. It could not have caused heart disease by August, 1920. I would like to make that quite clear. Rheumatic fever in early life causes heart disease, but not the chronic rheumatism which occurs in people of the age of Mrs. Armstrong.

If in years of adolescence a person suffers from rheumatic fever, does that affect the heart, or may that affect the heart?—It is usually in young people of under twenty when the heart is affected; one does not associate heart disease with the chronic rheumatism which it is said that Mrs. Armstrong was suffering from. I remember the fact that Mrs. Armstrong was treated for muscular rheumatism in May and June, and some time in July and August, and that then the visits ceased. I do not think from those facts that it is possible from this rheumatism so described that Mrs. Armstrong could have developed heart disease by August, 1920. I took careful note of the symptoms of Mrs. Armstrong's illness which caused her to be sent to Barnwood Asylum in August, 1920. From the symptoms it is difficult to say what the nature of the toxæmia or poisoning was she was suffering from when she was admitted to the asylum, but they are consistent with an irritant poison having been taken. I was also told that she was suffering from melancholia, vomiting, albumen in the urine, and some dilatation of the heart, and that her skin was pale and sallow. Toxæmia might have been the cause of the melancholia; no doubt the time of life also partly associated with that. Mrs. Armstrong was undoubtedly very ill when she was taken to the asylum.

Dr. Hincks noticed a change between the time he visited her early in the day, about midday, and the time when he went back again later in the afternoon, after having made some arrange-

ments—about three o'clock in the afternoon. Does that indicate anything in your mind?—Yes.

What?—The occurrence of the vomiting is consistent with some irritant poison having been administered.

If an irritant poison had been taken, would you expect to find her symptoms more acute at three o'clock than they were earlier in the day?—It depends, of course, on the time at which the poison was taken. If some had been taken between those times I should. After admission to the asylum a test of her urine was taken, and albumen was found, and I also understand that she did not pass urine for twenty-four hours. That indicates that she was very seriously ill. If there was suppression of urine the condition would be more serious than from bare retention. Suppression of the urine would indicate some toxic action on the kidneys, some poisonous action on the kidneys, and, of course, it might be due to other causes as well. The albumen is also evidence of some toxic poisoning of the kidney.

Following out the symptoms, we know that the albuminuria cleared away by the 28th August, and that peripheral neuritis had developed in the course of about a fortnight after her admission. Do you attach importance to those two features?—Yes, I attach great importance to that.

What do they indicate to you?—They indicate to me that the cause of the whole illness was arsenical poisoning.

Will you tell my lord and the jury why you say that?—This peripheral neuritis may occur from chemical poisons of which the common one is alcohol, and which we may exclude here; it may occur from bacterial poisons, such as diphtheria, of which there is no evidence here; it may occur from auto-intoxication of a severe type.

By Mr. Justice Darling—Intoxication is such a common word it may be misunderstood. Tell us exactly what you mean?—If the body is not doing its work properly, for example, if the kidneys are not working properly, or the liver, or the pancreas (that is the sweetbread), then poisons accumulate in the system and cause illness, and that illness is called auto-intoxication. The commonest form of auto-intoxication is diabetes. That frequently causes neuritis. There is no evidence of any diabetes here. There was no sugar in the urine. You might get auto-intoxication from chronic Bright's disease, but there is no evidence that there was chronic Bright's disease here.

Examination continued—I attach importance to the clearing up of the albuminuria, and the commencement of peripheral neuritis. The other causes of peripheral neuritis, such as cancer or tubercule, can be excluded here, or beri-beri, which is a tropical disease. I attach importance to the clearing up of the albuminuria in the urine and the clearing up of the peripheral neuritis, and the redevelopment of that later on when the patient got home

in February. The clearing up of the albuminuria by the 28th August indicates that the cause had ceased. If the cause of this illness had been auto-intoxication it would have been still operating, and the albumen in the urine would not have cleared up, nor would the peripheral neuritis have cleared up.

Can you explain how it was that the albuminuria should clear up and the peripheral neuritis should come on?—Yes. In arsenical poisoning the action of the arsenic on the kidney is a quick one; it occurs in twenty-four hours. The action on the nerves is a slow one, and takes ten days or a fortnight, or perhaps longer, to commence.

If the cause was arsenical poisoning, arsenic administered before she went into the asylum, would you expect to find the albuminuria had ceased, as it had, by the 28th August?—Yes.

And consistently with that, might or might not the peripheral neuritis appear?—Yes, I should expect the peripheral neuritis to occur the first ten days or so after arsenic had been taken.

And not before?—No. It takes ten days or so—several days—to commence.

You have told us that Mrs. Armstrong was not suffering from Bright's disease in August, in your opinion, when she went to the asylum?—That is so. Bright's disease is a chronic disease, and Dr. Hincks discovered no sign of Bright's disease up to the time that Mrs. Armstrong went to the asylum. There were no symptoms of it described, and it is a disease which does not clear up in a few days; it is a more or less permanent disease. It lasts a long time; it is rarely curable.

Let us pass on to January, when Mrs. Armstrong returned home from the asylum. You remember that in the letter of Dr. Townsend it was said that they had come to the conclusion that the neuritis was functional and not organic. What do you say about that?—My opinion is that the neuritis was a peripheral neuritis; I have no doubt about it. There may have been some functional symptoms superadded; indeed, I think Dr. Soutar says that in his letter.

Is it easy or not to diagnose arsenical poisoning during life?—It is difficult; it is very difficult unless an analysis is made; the symptoms of arsenical poisoning may be imitated by disease. I know that Dr. Hincks found Mrs. Armstrong physically very much better on the 25th January when he saw her, and then in February he speaks of the high-steppage gait. That, to my mind, is a very important feature; it is the most important symptom of peripheral neuritis. Owing to the weakness of the feet they drop, and the patient lifts the feet up high to prevent the toes catching the ground. I am familiar with that symptom of which Mrs. Armstrong complained, that she felt as if she had springs in her feet; it is a fairly common disorder or sensation in peripheral neuritis.

We know that from the 16th she suffered from severe vomiting, and there was diarrhœa, and again a very high pulse and systolic murmur, some indication of trouble in the heart, and you remember the rest of her symptoms. Will you speak of those and say to what you attribute those symptoms?—Those symptoms were, in my opinion, undoubtedly due to an irritant poison, and in view of the presence of this peripheral neuritis I should say that undoubtedly those symptoms were symptoms of arsenical poisoning.

Poisoning over what period and in what doses, do you mean?—First I must deal with the recrudescence of the peripheral neuritis. That indicates the taking of arsenic a few days before those symptoms reappeared. I believe they reappeared on the 11th February. That would indicate the taking of arsenic before the 11th, say six or seven days, but it is impossible to say exactly—several days before. Then on 16th February there were symptoms of acute latent poison, and those indicate that some poison, arsenic, was taken on that day or within a few hours of the onset of the symptoms.

And from and after that time the continued vomiting and the diarrhœa, pulse, and so on, what do they indicate to your mind?—Those indicate taking of further large doses of arsenic.

By Mr. Justice Darling—When?—It is impossible to say, though certainly some must have been taken a few hours of the onset of the symptoms on the 16th.

Examination continued—Having regard to the analysis of the organs of the body taken ten months after burial, from the distribution of the arsenic in the alimentary canal, I have no doubt that a possibly fatal dose was taken within twenty-four hours of death. By a possibly fatal dose, I mean 2 grains is usually accepted as a possibly fatal dose. With regard to the three places where Dr. Spilsbury said he found a liquid which contained arsenic, the jejunum, the ileum, and the cæcum, I entirely agree with Dr. Spilsbury's figures as to the time which it would take for arsenic taken through the mouth to get to those points. I think he gave four hours for the passage through the stomach and ten hours for the passage through the small intestine, and I think he gave twelve hours for the cæcum. They are very fair figures. With arsenic found in these places, and having regard to the time it would take to get there, I have no doubt whatever that a large dose was given some time before death—within twenty-four hours of death. A large quantity, over 2 grains, was found in the liver. That indicates to my mind that there must have been a good deal of arsenic absorbed during the last few days of life. Two grains is an unusually large quantity to find in the post-mortem in the liver. Arsenic was also found in the kidneys and other places, and that supports my contention.

Does the finding of that arsenic in the kidneys give any explanation of what was put down in the certificate—nephritis, kidney trouble?—Yes, the case itself, the whole history of the case,

shows that the kidneys must have been damaged by the poison. Looking at the symptoms which occurred in August, 1920, and the symptoms which occurred in February, 1921, I find a similarity between them on a great many points. The diarrhœa is not described as occurring in August, 1921, and it occurred in the later illness, the last illness. Of course, the vomiting was more marked in the last illness. In August, 1920, and February, 1921, I find from the symptoms evidence of arsenic being taken over a period of some days. With regard to Mrs. Armstrong's illness in February, 1921, and the condition in which the organs of the body were found, I should expect her condition during the last two or three days of her life to be one of extreme weakness. Having in view that she had peripheral neuritis on the 11th, and then these acute symptoms afterwards, she must have been practically paralysed the last few days. I heard it stated that she had difficulty in co-ordinating the movement of her fingers at an early stage. That would increase up to the time of her death. I know that the certificate which Dr. Hincks gave was heart disease for twelve months, nephritis or kidney trouble for six months, and gastritis for twenty-one days. There is a sequence between those three causes of death. By that I mean, assuming that this illness was due to natural causes, that would be the only explanation one could give on the ground that it was natural causes. Dr. Hincks attributed the heart disease as primary, and the kidney and nephritis as secondary to that, because the nephritis cleared up. If it had not cleared up he would probably have put it the other way round. Gastritis was the name given for the vomiting during the last two days. If the heart is not working properly the kidneys become congested, and then you get albumen in the urine. With my knowledge of the case I would not be satisfied to attribute the heart trouble, the murmur in the heart, and so on, and the dilatation of the heart, to rheumatism. There is no doubt in this case those symptoms were not due to natural causes, but were due to arsenical poisoning.

At some time of the case it was suggested, or at least indicated, that Mrs. Armstrong might possibly have committed suicide. Do you think that these doses or the taking of arsenic over a considerable period of time that you have told us of would be consistent with suicide?—In suicide one would expect a large dose to be taken, or possibly two, but in this case there was obviously taking of successive doses, a continued dosage, causing very painful symptoms and not in the least indicative of suicide, but rather the contrary, putting it out of court.

By Mr. Justice Darling—You say many doses were taken over a long time?—Yes, there were some doses taken in the beginning of February, 1921, and there must have been several doses taken from 16th February until 22nd February, in the last acute stage of the illness.

You feel certain, I gather, that she had a large dose of arsenic within twenty-four hours of her death?—I have no doubt about that.

Having regard to the whole of the evidence in the case, the evidence of the nurses and the evidence of the doctors, and the evidence of the analysts, do you believe that she could possibly herself have taken that dose?—Do you mean in the last acute illness?

Yes?—No, I do not.

Within the last twenty-four hours?—No, certainly not.

How far back would you go?—Certainly for the last four or five days it would have been impossible.

Examination continued—If it had been a case of auto-intoxication arising from rheumatism and acting upon the kidneys, and so on, I would have expected to find sugar in the urine, but there are many varieties of it, diabetes being one. With diabetes you get sugar in the urine, and, of course, there is a wasting and many other symptoms.

Mr. Justice Darling—I do not see the purpose of going into this, because I understand it is not disputed, and has not been disputed, that she really died of an administration of arsenic, and the only question is whether the defendant gave it.

The Attorney-General—I think the point which is put is that that may have happened in February, 1921, but the illness in August, in consequence of which she was taken to the asylum, was not a case of arsenical poisoning, but auto-intoxication.

(*To Witness*)—I only want a few questions about Mr. Martin's illness, consequent upon the tea, the illness which commenced on the 26th October, 1921. Have you listened to the evidence given as to the symptoms from which Mr. Martin suffered on that evening and the subsequent days?—Yes. In my judgment the symptoms pointed to some irritant poisoning, some gastro-enteritis, inflammation of the stomach and intestines, due to some cause, I cannot say what from the symptoms alone. When I find on the fourth day after the illness began that 1/33rd of a grain of arsenic was found in the urine it makes it quite clear. Assuming that arsenic was passed by the patient, I should have no doubt about the cause. The 1/33rd of a grain in the 17½ ounces is a large quantity, *qua* arsenic in the urine. From that fact and the other symptoms I form the opinion that the illness was due to a dose, a possibly poisonous dose, of arsenic being taken within a very short time of the onset of the symptoms. By "a possibly poisonous dose" I mean at least 2 grains. I observed that the urine which was tested was passed late on the 30th or early on the 31st, which was some four days, if not a little longer, after it is said that the poison was administered. That corresponds exactly in my judgment with what I would expect. For some years I have made a particular inquiry as to the taking of arsenic and traces of it being found in the urine.

There is a treatment commonly known as the salvarsan treatment, used for certain diseases. In the salvarsan treatment there is a considerable amount of arsenic mixed with other ingredients. In taking the combined medicine the arsenic does not have any poisonous effect; the combination destroys the poisonous effect of the arsenic. A patient treated with salvarsan has as much as 3 grains introduced into the circulation, but by virtue of the combination the poisonous effect is prevented. I had a number of tests taken so long ago as before 1916 as to the result of this administration of arsenic and its effect upon the urine of the patients; I published a paper on it in 1919. The tests were made on the urine of patients who had been subjected for a certain time previously to salvarsan treatment, and I found that the result on the fourth day after giving the patient a full dose of this arsenic preparation the identical amount of arsenic occurred in the urine which occurs in this case; that is to say, the identical percentage. Therefore I do not think that the lapse of four days or four and a half days is too long a period to find some arsenic in the urine; you may find arsenic in the urine for a fortnight—ten days at least. In the case of Mr. Martin, he had had violent vomiting. That does not in any way militate against the accuracy of my tests which I made in the other cases.

Can you form any opinion, having regard to the violent vomiting which took place, and so on, as to what would be the amount of arsenic which must have been taken four days previously, if after the lapse of four days you find 1/33rd of a grain in the 17½ ounces of urine?—Yes, I should say a large dose, probably over 3 grains.

By Mr. Justice Darling—The vomiting certainly would get rid of a considerable quantity of arsenic, so that you would find less in the urine than if he had lived and had not vomited.

Examination continued—Applying the results of my experience gained by the administration of salvarsan, including arsenic, my results are in no way interfered with by the fact that there was vomiting in this particular case. With that experience and that knowledge gained as long ago as 1916, I can form a confident opinion as to what the cause of Mr. Martin's illness was. I say it was acute arsenical poisoning. I think it is impossible that that quantity of arsenic could have got into the urine by taking food under ordinary conditions, running the chances which we all run of taking arsenic. It is also larger than one finds from ordinary medicinal doses.

By a Juror—Is there any taste or flavour to arsenic?—If the white arsenic that was passed round is taken it has a somewhat metallic taste, but when mixed with foods it is quite tasteless.

Cross-examined by Sir H. Curtis Bennett—What is the largest dose which is given properly as medicine?—In certain diseases you

may give fairly large doses. The pharmacopœial dose goes up to 8 minims three times a day. That is 8/100th of a grain. That is the maximum dose. That is 1/12th of a grain. You can work up to that quantity three times a day, but if you give it straight away it would make the patient ill. Two grains is a possibly fatal dose. It is possible for 15 grains to be given and the person still live if severe vomiting occurred.

I will deal first of all with Mr. Martin's case. As I understand it, if you had not got the analysis of the urine, the symptoms in that case were the symptoms of ordinary gastric enteritis?—Yes, they might have been due to ptomaine poisoning; they might have been due to a number of causes. Rheumatism would not cause auto-intoxication, but auto-intoxication would cause rheumatism. Auto-intoxication arises from a great number of different causes. Mrs. Armstrong undoubtedly had chronic rheumatism. That may have been caused originally by auto-intoxication or some other cause. I do not agree with Dr. Hincks that the rheumatism that she suffered from might have caused the heart trouble which she thought she was suffering from in August, 1920. I have given my reasons for it. Even if I had seen her in August, 1920, I would not have thought from the history that rheumatism was sufficient to account for what Dr. Hincks saw. I think that that was a mistake. Unless there was, as I say, evidence of rheumatic fever in early life, I should attach no importance to that.

I want to take the case as we know it, and as Dr. Hincks knew it, 1915 to 1918, rheumatism; 1918 and 1919, neuritis; 1920 he hears the mitral-systolic murmur, and he puts that down to having been caused by rheumatism. With that you do not agree?—I should want some further evidence before I put it down to that; possibly he had more.

Up till the 21st August, 1920, the day before she went into the asylum, there is no evidence that I have heard pointing to arsenical poisoning. Assuming arsenic is given in a large dose, you generally have vomiting and sickness. It is not necessary in every case of taking a large dose of arsenic to get vomiting, but you nearly always do. Peripheral neuritis might arise from one dose of arsenic. As a matter of fact, the worst case of peripheral neuritis from arsenical neuritis that I know of was after one dose. The peripheral neuritis appeared within ten days of the taking of the dose. Peripheral neuritis does not always follow one dose of arsenic. It is rather uncommon after one dose; it more often follows repeated doses.

At the time when Mrs. Armstrong was at Barnwood Asylum, after she had been seen by Dr. Hincks, Dr. Townsend, and Dr. Soutar, were the symptoms from which she was then suffering symptoms that were consistent with illness distinct from arsenical poisoning?—They are consistent, as I have already stated, with arsenical poisoning, but there is no history of that.

Try for a moment, if you can, to put yourself in the position of these doctors at Barnwood. They do not know what you and I know now; they do not know what was found ten months after this lady was buried. Seeing the lady in October, 1920, were the symptoms from which she was then suffering symptoms which may be imitated by other diseases than arsenical poisoning?—They may be.

There is nothing extraordinary, is there, that those three doctors at that time did not recognise that she was suffering from arsenical poisoning?—It was a very difficult case then. The symptoms were consistent with illness other than arsenical poisoning. Peripheral neuritis may be got as the result of a toxæmia, which is the result of auto-intoxication, or from other poisons. You may get a tenderness of the muscles in peripheral neuritis, but not always. You get that in alcoholic neuritis. It is a symptom which should be looked for, but it is not a very important symptom. There is no evidence of it in this case. Numbness is also a symptom, and there is no evidence of it here, except that the term "pins and needles" was used, which is almost the same as numbness.

Do you recollect when the description of pins and needles was given? It was in the evidence of Miss Friend, and related to a time long before August, 1920; it related to 1917. You do not suggest that this lady was suffering from peripheral neuritis in 1917 and 1919?—No, not then.

That cannot be the numbness from peripheral neuritis, can it?—No.

What would be the pins and needles at that time?—You may get it from rheumatic local neuritis. Dealing with the time after she came back in January, I suggest that she must have had a possibly fatal dose or a large dose of arsenic some day prior to the 11th February.

Assuming—you understand I do not admit it—that Mrs. Armstrong was suffering from arsenical poisoning in August, the evidence there is of one dose on the 22nd?—I would not like to say of one dose; of dosage over a short period.

There are no symptoms of any arsenical poisoning before the 21st August?—That is so.

If there was any arsenical poisoning at all in August the evidence is confined to one day?—If that is a true record.

It is the evidence, is it not?—Yes.

I am dealing with the evidence. Assuming she was suffering from arsenical poisoning in August, the evidence is confined to the taking of arsenic on one day—the symptoms. That is right, is it not?—That is assuming a large dose was taken. Arsenic might have been taken in moderate doses for several days, and then a large dose to cause the vomiting. I agree there is no evidence of any vomiting before the 22nd August, but arsenic might have been

taken in doses insufficient to cause vomiting before that day. It is usual to have vomiting if a large dose is taken, but there is no evidence of vomiting or any other form of arsenical poisoning before the 22nd August.

Therefore I am right, am I not, in saying that in August, 1920, we are really confined to that one day as far as evidence is concerned—the 22nd August?—As far as the evidence of a large dose is concerned.

There is no evidence of a small dose any other day?—That would be pure assumption.

Mr. Justice Darling—His point is that unless they have got somebody who saw her take it there would be no evidence of a small dose. If you are relying on vomiting there would be no evidence of a small dose, because a small dose would not cause vomiting.

Sir H. Curtis Bennett—I am relying on any symptom that this gentleman can tell me. I am suggesting, and I thought he agreed, that there is no symptom of any sort, vomiting or otherwise, prior to the 22nd August.

The Witness—That is right.

Cross-examination continued—Very well, I will leave it there. In February your suggestion is that there was a dose some days prior to the 11th?—There was some arsenic taken.

It may have been one dose?—Possibly, or several small doses.

It may have been either?—Probably several small doses.

And you form that opinion upon the examination of Dr. Hincks upon that day?—Yes.

The recurrence of peripheral neuritis?—Yes.

And upon that alone?—And upon the general state of health. He describes her as being very ill on that date.

But no vomiting?—No.

Then the next serious date is the 16th February, is it not?—Yes.

Do you agree with the answer that I received from Dr. Spilsbury that a person may take one large fatal dose of arsenic, may suffer from vomiting for a couple of days or three days, and then gradually sink and die at the end of five or six days?—Yes, that is an abstract proposition.

It is possible?—Yes.

That, I understand from Dr. Spilsbury, might happen without other disease. The other case I put to him was the remission; do you agree with that answer too?—Yes.

Then a person may take one large fatal dose of arsenic on the 16th and have sickness on the night of the 16th, 17th, and 18th, perhaps, and then gradually sink from exhaustion and die on the 21st or 22nd?—Yes.

Would such a person be able probably to keep down food at all, either liquid or otherwise?—It would be rather difficult.

Probably she would keep some down, but there would be a tendency to vomiting.

Even after the regular vomit, if I may so call it, had ceased?—Yes; the stomach would be left in an irritable state.

And on such a person dying and being buried would you find, first of all, that the intestines of such a person would be practically empty?—Yes.

Assuming that that person had taken a really large dose of arsenic, 7 or 8 grains, would it be possible up to now for everything to have happened as I have put it?—Seven or eight grains is a big dose. It is conceivable that death might be so late, but it would probably be earlier.

Six grains; I will put it a little less than 7 or 8?—It is possible. I should expect death to occur earlier than five days.

The death occurring after five or six days would mean that a considerable quantity of the arsenic had been absorbed, would it not?—Yes. It would also mean that a good deal had been got rid of.

A good deal of it had been absorbed and a good deal of it got rid of?—Yes; I should expect to find practically none in the alimentary canal.

The liver?—There should be some in the liver. Most of the arsenic in the body would be in the liver.

And you would expect to find most of what had been absorbed in the liver?—But the stomach and intestines would be empty of arsenic practically.

In the case of suicide by arsenic you said to the Attorney-General that you would expect one or two doses would be the most that would be taken?—Yes, that is rather a matter for common sense.

That is bound to be guesswork, is it not? It depends upon the person who is taking it?—Yes.

A person who is not sane might take more than a person who is. A sane person might have such a lesson from the first dose that he would not take another?—Yes.

On the other hand, a person who is not normal might take two or three doses?—Yes.

By Mr. Justice Darling—In order to commit suicide?—Yes. The rules which would hold with a sane person would not hold with an insane person.

A suicide who threw himself out of the window and was cured might do it again and again until he killed himself.

Sir H. Curtis Bennett—He might go to a higher window the second time.

Mr. Justice Darling—No, that would show sanity.

Cross-examination continued—I want to face the one last question; as I put the story to you now up to the 16th February,

is it consistent, even assuming arsenical poisoning in August, with a dose on 22nd August?—Yes.

And a dose a few days before the 11th February, and a dose upon the 16th February—up till that date?—Yes.

What is the reason why you say there must have been a dose within the last twenty-four hours. Is that because you find arsenical poison in the small intestine and the cæcum and the ascending colon?—Yes.

Otherwise it might have been consistent with what I have put. Is that right?—Well, the whole history of the case supports my view. I also say that a dose must have been taken within the last twenty-four hours because of the symptoms; the vomiting and diarrhœa were very severe indeed during the last two days.

Have you got in your mind when you are mentioning those matters the evidence of Nurse Lloyd as to what happened on the Sunday night?—Yes.

During the ten hours that she was there, one motion?—Yes.

During the ten hours she was there, two vomitings earlier on in the time and no vomiting after two o'clock?—Yes.

Mr. Justice Darling—Sir Henry was speaking of the diarrhœa during the last twenty-four hours. She died about two o'clock on the 22nd. That would be from about ten on the 21st.

Sir H. Curtis Bennett—First of all, Sir William said to me two days, so I dealt with two days.

Mr. Justice Darling—You pointed out that what he was talking about was twenty-four hours.

The Witness—Then I restricted it to twenty-four hours.

Cross-examination continued—Do you want to restrict the vomiting and diarrhœa to twenty-four hours?—The reason I said two days was because I think Nurse Allen said there was diarrhœa the last two days.

To test Nurse Allen's evidence I am pointing out what Nurse Allen said, within the last thirty-six hours Nurse Lloyd was there, and she said that during the period of ten hours she was there there was only one motion, two vomitings, and both of those were early in the time, and nothing after two o'clock in the morning?—I agree with that.

Mr. Justice Darling—When do you take those ten hours from? What day was it?

Sir H. Curtis Bennett—She was in charge the Sunday night from between nine and ten o'clock. Ten o'clock would be exactly thirty-six hours before death.

Mr. Justice Darling—That would be till eight o'clock on the Monday morning.

Cross-examination continued—During that time her evidence was that there was one motion and two vomitings, but nothing after two o'clock in the morning.

By Mr. Justice Darling—Nothing after 2 a.m. on the 21st?

—Until 8 a.m. It is clear that there was vomiting and diarrhœa during the last twenty-four hours.

Cross-examination continued—You say it is clear; that is the evidence of Nurse Allen?—Yes.

Nurse Allen's evidence is that there was vomiting and diarrhœa during the last two days?—Yes.

I am testing that by pointing out what the evidence is of Nurse Lloyd for ten of those hours. The opinion you have formed is formed upon the evidence of Nurse Allen as to there being vomiting and diarrhœa during the last twenty-four hours?—Yes, and also Dr. Hincks, I think, alluded to the vomiting.

I do not think so in the last day.

By Mr. Justice Darling—At any rate Nurse Allen said so?—Yes, Nurse Allen is the most important.

Cross-examination continued—I am pointing out to you that she draws no distinction in the last two days?—No.

As regards the presence of arsenic in the small intestine in the cæcum and ascending colon, am I not right in saying that with arsenic which is taken in the form of powder sometimes some of it will act upon the system and will be dispelled or be absorbed into the system, but that some of it may become encysted in the stomach?—It may, but it is uncommon.

If it becomes encysted in the stomach, may it not remain in that condition for a few days and then dissolve and pass off again?—You mean in the stomach; it might, but it is very unlikely.

But it might become encysted in the stomach, and then after two or three days dissolve and pass on. That is a possibility?—Are you speaking of white arsenic?

Yes; I am not speaking of fluid arsenic, of course. I am speaking of powdered arsenic?—I think it is extremely unlikely. I cannot deny the possibility, but it is extremely unlikely.

Re-examined by the Attorney-General—You were asked as to whether or not a patient could take a dose of arsenic up to as much as 15 grains, and I think you said "yes"?—And recover, do you mean?

That is what I want to understand. Under what circumstances could such a heavy dose be given, and would you have to prepare the patient by successive and increasing doses?—No; I said that up to 1/12th of a grain might. That is the maximum of the pharmacopœia. Speaking of medicinal doses, sometimes large doses of arsenic are given.

What do you mean by a large dose of arsenic?—Large medicinal doses. But this is quite different from poisoning; very much smaller than doses that occur in cases of poisoning.

Mr. Justice Darling—You said that a person might possibly take 3 grains and recover; that would be only if he vomited?

Sir H. Curtis Bennett—That is right; I was only trying to get the maximum dose which has been known not to end fatally.

The WITNESS—A person might take a large dose of arsenic and vomit it all back again and recover.

Re-examination continued—If he took 20 grains and was immediately sick, I suppose that could be done? If you arranged to take it and immediately make the patient sick it is possible no injury might happen?—He is sure to be very ill, but it is possible he might recover.

Mr. JUSTICE DARLING—It is like these cases where a man may swallow a knife.

Re-examination continued—Is the condition that he should immediately vomit it up?—Yes.

My friend asked you some questions based on the suggestion that there was no evidence at all that Mrs. Armstrong had taken arsenic poison except during the one day, the 22nd August. 1920?—Yes.

I want to call attention to the evidence that was given by Dr. Hincks. Does that point, in your opinion, to there having been arsenic administered before the 22nd or not?—Yes, it points definitely to arsenic having been taken for several days before the 22nd, and I should have said that from the fact that peripheral neuritis developed early in September. It is that kind of administration over several days which is likely to be followed by peripheral neuritis. But the fact that peripheral neuritis occurred early in September indicates that arsenic had been taken for several days prior to 22nd August.

Furthermore, before the albumen appeared when the urine was tested before the 22nd, would it take some time to produce the symptom of albumen in the urine after the arsenic had been taken?—A short time; it might occur in two or three days.

So that, taking the evidence of Dr. Hincks and the condition of the urine found, if he is right that he took it on the 18th when he saw her on the 21st, would that point to arsenic taken on the 15th August?—About that time.

Having regard to the symptoms as a whole, in your opinion did the dosage, as you have called it, continue for a number of days, or was it one single dose in August?—For a number of days, and then there was vomiting on the 22nd; there was a large dose on the 22nd.

Why do you say a large dose and mention vomiting at the same time?—Because a large dose would cause vomiting. There was severe vomiting on the 22nd August.

Now we come to February. Sir Henry suggested to you one large fatal dose might be taken on the 16th February, sickness on the 17th and 18th, and then gradually weaken and die. And I think you accepted that as a possibility that that might happen?—No, not in this case. I accepted Sir Henry's supposition, but I gave reasons why I did not think it applied to this case.

I want to remind you of some evidence on the last days from Sunday onwards. Dr. Hincks said that on Sunday, the 20th,

she had nutrient suppositories; they are given when people cannot swallow. Mrs. Armstrong could not swallow, and could not retain through persistent vomiting?—Yes.

Going back a little bit, he spoke of the vomiting as early as the 17th being constant?—Yes.

In view of that evidence, do you think that the symptoms could have been caused by a single large dose given some days previously?—No, I think it is impossible in this case.

By Mr. Justice Darling—Having regard to the evidence?—Having regard to the symptoms.

Having regard to the symptoms and the evidence of Dr. Hincks?—Yes. The symptoms of irritant poisoning, that is the vomiting and the diarrhœa, were increasingly severe up to the end. If death had occurred from one large dose five or six days before I should have expected the patient to have been in a state of exhaustion during the last two days without marked diarrhœa and vomiting such as occurred here.

Re-examination continued—I want to ask a question in reference to Nurse Lloyd's evidence. Nurse Allen first told us that Mrs. Armstrong always vomited after the Wednesday and could not keep anything down, and she grew steadily weaker?—

But it is suggested as a factor that Sir Henry makes use of that, while Nurse Lloyd was in attendance for ten hours, after 2 a.m., between 2 and 8 a.m. apparently there was no motion and no vomiting?—Yes.

Does that strike you as remarkable having regard to the previous symptoms and her condition?—No.

Just tell us why, at that stage of her illness?—I think there is no doubt that the recurrence of symptoms after that time was due to a further dose of arsenic.

We know on Monday and later there was vomiting, and she died on the Tuesday. Do you think that that points in the direction of a further dose?—Yes.

Mr. Justice Darling—After Nurse Lloyd left?—Yes.

Re-examination continued—And that would be within twenty-four hours of her death?—Yes.

And as you have already told us, I think, the evidence of what was discovered in the body is consistent with that view?—That entirely confirms it. I attach importance to the increasing quantities of arsenic found in the intestine, that is, 1.6 milligrams in the jejunum, 9.1 milligrams in the cæcum and ascending colon; those are in graduating amounts, and it is unlikely that the arsenic would have got in those proportions accidentally from soakage as has been suggested.

My friend asked you a number of questions about the condition in August, and so on. Is there, upon the evidence we have before us from the post-mortem examination, any indication of heart disease due to rheumatism?—Not the slightest.

By Mr. Justice Darling—You thoroughly understood the hypothesis put to you by Sir Henry Curtis Bennett as to the last two days of the life of Mrs. Armstrong, and what might have happened during those two days?—Yes.

Taking that hypothesis as he put it, and remembering all the evidence that you have heard as to everything, is that hypothesis, in your opinion, a possible one to account for Mrs. Armstrong's death?—Quite impossible.

You understood it to be a suggestion that it was suicide committed according to the system of that hypothesis?—Yes.

The Court adjourned.

Seventh Day—Monday, 10th April, 1922.

Opening Speech for the Defence.

Sir H. Curtis Bennett—May it please your lordship, gentlemen of the jury, at last I have an opportunity of addressing the tribunal which is trying Major Armstrong for his life. A week ago to-day this case was opened, and it would be an impertinence for me to say fairly opened, by the Attorney-General. You will remember how the Attorney-General impressed upon you the very great responsibility that you were assuming as jurors in that box, and for a week you have listened to the case for the prosecution as against Major Armstrong being slowly unfolded. Gentlemen, if I may say so, anybody who has been in this Court and has seen the attention with which you have followed the whole of that evidence would realise that you indeed did acquit yourselves last week as the Attorney-General said that you would, that you did realise what your responsibilities in this matter were. Now the case for the prosecution is finished; the case against Major Armstrong, by which the prosecution seek to show that this man here is responsible for the death of his wife, is at an end. You have heard the evidence-in-chief, and you have heard the cross-examination of the witnesses; you have heard those witnesses tested; and I hope to be able to show you that the case which was opened upon instructions by the Attorney-General a week ago to-day exists no more, and that the case which was then put before you was a case which, since it has been tested on one point after another which was made by the prosecution, has gone, and you are left, as I shall hope to show you in a few moments, with the skeleton of the case which was then made against him. Now you have to hear, and you will desire and be glad to hear, the case of Major Armstrong unfolded.

I have often wondered, and I have never wondered more than during the last three days, whether anybody realises the terrible anxiety and responsibility which rests upon the shoulders of a member of the bar when he is defending a man for his life. I have never realised that responsibility more than I do at this moment, when I am able to discuss the case with you. You will bear in mind that suggestions that I am putting before you are put before you for your consideration. You will quite understand, I am sure, that in nothing that I say am I attempting (it would be most improper for me to do so) to dictate to you. The suggestions and the criticisms which I propose to put before you in some little detail are for you to consider; if they are worthy of consideration, I know you will give them careful consideration. If you think that the criticisms are well founded, then let those criticisms prevail, and if you think that the arguments that I put

Sir Henry Curtis Bennett, K.C.

before you are good arguments, then, of course, you will give them due weight. If you think they are bad, cast them aside.

What is the case now against Major Armstrong? The case, as I see it in a nutshell, is this: that in August, 1920, Major Armstrong started to administer arsenic to his wife; that in January, 1921, he continued, upon her return from Barnwood Asylum, to administer poison to her; and that finally she died as the result of poison administered by Major Armstrong. Is not this case a most extraordinary one? The prosecution set out to prove that, and, in setting out to prove that, they are not able to make any suggestion at all (I have been waiting to hear it) as to how Major Armstrong is supposed to have administered that poison, or as to the times when he was administering it; and, in my submission to you, they have shown no motive of any sort or kind why he should, though they have tried to. They have shown no more reason why Major Armstrong should have murdered his wife than any other person in that house. I am not suggesting who it is, and it is not upon me to suggest, and it is just as well when you begin to consider this case that we should get back again to realise what the criminal law of this country is. No accused person has to prove his innocence, of course not; it would be an impossible position. You can think for yourselves, without my suggesting to you, numbers of cases where a person might be charged with a criminal offence, and where it would be absolutely impossible for that person to prove his innocence. Take, for instance, the very simple case of where sometimes into a pocket or trunk is put by some malicious person some article which is stolen; say, into your trunk. It is found there. The accusation is made. It is almost impossible to prove your innocence; you can only prove your innocence by saying, "The prosecution cannot prove my guilt." Therefore, do not be under any misapprehension here. I know you will get the law from my lord later on, because my lord is here to direct you upon questions of law, and you are here to deal with the evidence. Do not forget that it is for the prosecution to prove what they set out to prove; not to put a man into the dock and then say, "Well, look at all this; that is very suspicious, this is very suspicious, and the other is very suspicious, therefore he is guilty." They have to prove what they set out to prove. Just one word of warning. Do not be under the impression that I, as appearing for Major Armstrong, or Major Armstrong when he is in the witness-box, have to show you conclusively, to prove conclusively, that somebody or other administered, or Mrs. Armstrong herself took, this arsenic. It is for the prosecution to prove their case, and I do not want the issue to be left here, although I should not hesitate to face it if it was the issue. But it is not; and I do not want the issue to be that I have to prove that it was somebody else. I am going to suggest to you, and I hope to show you that if you take the ordinary line

of possibility, that if you take the ordinary chances, the case that Mrs. Armstrong took this poison herself is an infinitely stronger one than the case which is made against Major Armstrong. It is not necessary for me to satisfy you that if she took it she took it intending to commit suicide; but I am going to submit on the facts which have been already proved in this case, when going into the case for the defence, that the probability that she did so take it is very much greater than the case which is made against Major Armstrong.

Just two other matters before I deal with the facts. This case, as you, I am sure, will have appreciated, has been worked backwards from the post-mortem; everybody has become extraordinarily wise. The whole case which is made against Major Armstrong is based upon the finding of arsenic in the body of Mrs. Armstrong, and then working backwards and saying, "Look what that means; what a suspicious thing that means; right away back to August, 1920." That is how the case is started, and in my submission to you it is founded upon a falsity. The whole of the case for the prosecution, remember, is this, that until September, 1920, Mrs. Armstrong had never suffered from what has been called peripheral neuritis or multiple neuritis, which really means, as you know quite well, neuritis in different parts of your body, all over your body. That has been their case. If that case is founded upon a falsity you will look very carefully at the whole of the rest of it. Just let us see what the facts are that have been proved. Major Armstrong (I am not going through his career with you at all) is a gentleman who had, as the Attorney-General said, made for himself a position of which he could be proud, a gentleman against whom nothing was ever said until Mr. Martin started to say it; a gentleman who was married to his wife in 1907; and you will agree the whole of the evidence shows his living on terms of affection with his wife right up to August, 1920, when she went to the asylum. He was the last person one would suspect of poisoning his wife. There is no history here, such as you get so often, of a miserable married life, years of misery; motive the strongest to get rid of a person whom the man may think is the cause of that misery. But the whole of the history from 1907 up to August, 1920, is precisely the other way, and you start in this case with the fact that they were a devoted couple; everybody says so. Put a man in the dock and charge him with murder, then everything he does becomes of a suspicious nature. They say, "Ah, he used to go up to his wife's bedroom in the evening before she went to sleep; what a suspicious thing"—because he is in the dock charged with murder. That would give him an opportunity of administering the arsenic. Fortunately, twelve men of common sense are not going to deal with matters in that way. If he had not gone up to his wife's room, then it would have been said by the prosecution, "Yes, he may have been

a devoted man up to August, 1920—neglecting his wife, going there when nobody could see him in the hours of night to administer poison"—and they would have said, "Why this change?" But because he is behaving as every normal, decent man would behave, because he is behaving exactly as the whole of the history of this case would show he would be likely to behave, a devoted husband going up in his spare time, and in most of his spare time sitting by his wife, then in the atmosphere of this Court, with the man upon trial for murder, people hold up their hands and say, "Good gracious, he was going upstairs to sit with his wife; he might have given it to her then." Why should this sort of atmosphere prevail when a man is put into the dock and charged? Every act which is a natural act, and an act which you would expect from the history of the case, in some extraordinary way is made to assume a sinister aspect.

In 1914 Major Armstrong was called up, as many another person was in the country; and from May, 1914, until 23rd May, 1919—note the date—he was serving. What is the history of the relations of Major Armstrong and his wife during that time? This man is alleged to be the poisoner of his wife. During the whole of that time the evidence is that, except for one leave, he spent all his leaves with his wife and children. In 1915 Major Armstrong goes to Teignmouth, and from 1915 until 1918 she is at Teignmouth. Say the prosecution, and it is as I have already pointed out the rock upon which this case is founded—say the prosecution, August or September, 1920, the first sign of this multiple neuritis which, according to the prosecution, is brought on by the administration of arsenic by Major Armstrong. There is not one scrap of evidence that he administered any, but that is their case. Is it a true case or not? Why, gentlemen, from 1915 right up to 1920, if you believe the evidence which has been given by the prosecution, Mrs. Armstrong was suffering more or less from time to time with multiple neuritis; and this case is founded by the prosecution upon the fact that in May, 1919, Dr. Hincks says he finds she has neuritis in one arm, I think the right arm, and he tells her to wear a sling. They seem to have forgotten the evidence of Miss Friend and Miss Pearce, because the evidence of Miss Friend is this, that at Teignmouth Mrs. Armstrong suffered from rheumatism, not in one hand, which was what Dr. Hincks found in May, 1919, but suffered from rheumatism in the hands and knees. In 1918 Miss Friend says her sister Mrs. Armstrong was suffering from loss of power in her hands; she could not play the piano, could not do up her dress. Has this evidence been forgotten by the prosecution when they say that this multiple neuritis only started in 1920? In 1918 she was suffering from multiple neuritis. In 1918 she was suffering not with neuritis in one arm, local neuritis, as it has been called, but with rheumatism in the hands and knees. You will not have lost sight of a

very important thing which came out in Sir William Willcox's evidence on Saturday. When I was cross-examining as to whether or not one of the important signs of multiple neuritis was missing in this case in September, 1920, the numbness, you will remember what Sir William said to me, "Oh, yes, there was some evidence of numbness—pins and needles." That is a matter upon which Sir William was relying for evidence of numbness in September, 1920, as being one of the symptoms of multiple neuritis. What did you find? Sir William was wrong in his date. The evidence of Miss Friend is that the pins and needles was in 1918. Then what does Sir William say? "Oh, well, it is not a symptom of neuritis in 1918"—that would not fit in with the case at all; pins and needles in 1918 would be some evidence of rheumatism. So if you get it within the period of time which is the case of the prosecution, it is a symptom of multiple neuritis; if you get it in 1918, it is not by itself evidence. I do not want to spend too much time on this, but in my submission to you—and that is why I submitted it to my lord when I was cross-examining Dr. Hincks, that 1920 was so important in this case—not pins and needles by itself in 1918, but loss of power, rheumatism in the feet and hands, and pins and needles in 1918, getting worse and getting better from time to time—you will be able to see by the doctors whom I shall call that that is what one would expect in multiple neuritis—sometimes very bad, sometimes better. That is the condition of this unfortunate lady, according to the evidence, right away from those earlier years, 1916, 1917, and 1918. The case does not rest there upon what her condition was, because Miss Pearce gave evidence upon it, and she says this, "I went away on 1st or 2nd August, 1920, for my holiday, and I was away when Mrs. Armstrong went to Barnwood Asylum, and I came back after she had gone to Barnwood. When Mrs. Armstrong came back on the 22nd January, 1921, she was still complaining of trouble in both her hands and feet." Therefore the evidence for the prosecution is clear and undisputed about this—that right away through these years 1915, 1916, 1917, 1918, and 1919, this lady, instead of being, as my friend's instructions were when he opened this case to you, perfectly well on the 1st of August, she had for five years more or less suffered, and part of the time was badly suffering, so that she could not play the piano—not could not play with one hand, could not play with her hands—was suffering from rheumatism in the knees, in the feet, suffering from loss of power, couldn't do up her clothes, and suffering with pins and needles, one of the very symptoms which Sir William Willcox in answering me brings forward as being a symptom in existence in 1920, and he finds he is mistaken and it took place years before. I am going to leave it there, I have put it clearly before you, and I say that I am right in thinking, as the result of some few years now at the bar, that arguments to a jury do not become any stronger because you

put them over and over again. I have put it; you are quite capable of dealing with the evidence, you are quite capable of appreciating the supreme importance of the evidence I have been drawing attention to; because if I am right—and I have taken great trouble and care to see that I am only quoting what the evidence was—if I am right, the case for the prosecution, that there was no multiple neuritis before September, 1920, and that it was caused by the administration of arsenic in August, 1920, has gone.

The result of it having gone is, that the whole of this story through 1920 right away down to 22nd January, 1921, is consistent, not with suspicion as against Major Armstrong, but with the illness from natural causes of Mrs. Armstrong. Gentlemen, there is one thing you and I have learned during this case—we have learned how to try and avoid getting multiple neuritis, but we have also learned that we cannot avoid it, because, although multiple neuritis may be caused by alcohol or arsenical poisoning, it is equally likely to be caused by auto-intoxication, which, to use ordinary language, means poisoning from within oneself, poisoning because some of the organs of our body are not acting properly. If I am right, and I am not afraid of criticism about it, if I am right in what I have said to you, the evidence is on this question of what Mrs. Armstrong was suffering from (and I am going to show several other reasons why I submit I am right). It was in 1920 multiple neuritis, which had been caused by self-poisoning, auto-intoxication—I do not want to use the word self-poisoning in case you should think I mean suicide, but poisoning from within —that is what she was suffering from.

May, 1919, is the next date I want to deal with, and I will leave to the end the question of the suggested motives which have been put before you. When a prosecution is conducted by the Crown (quite properly, in the interests of us all) every possible machinery and every department is at the disposal of the prosecution; no expense is spared in searching high and low to see what the evidence is, and in employing the greatest medical experts in this country. That having been done for months past, I say to you gentlemen (and it is for you and not for me) that the motives which have been put forward, which, of course, are the best that they can find, are ludicrous. When a man, it might happen to any of us—when a man has a charge brought against him, and perhaps that charge might be murder, that man on his own resources, and with the help of friends, staunch and true friends, has to deal with the case as best he can. It is not given to him to be able to employ Sir William Willcox and Dr. Spilsbury. He has to cut his coat according to the amount of cloth that he has got; he has to employ the best people that his pocket can afford. That is what is done in this case in the gentlemen that I am going to bring before you later. In May, June, and July, 1920, according to Dr. Hincks, this lady was suffering from local neuritis. She

had for years suffered from indigestion, she was a delicate woman, just the sort of woman who becomes nervous, hysterical, hypochondriacal, imagining things, and just the sort of person one finds suffering as the result of years of ill-health from this auto-intoxication bringing on rheumatism and other things.

Just that sort of person she was. Then we are left from 1919 until 1920 with no medical evidence; but we are not left without evidence as to what her condition was, because she was at Bath in October, 1919; and what do you find Miss Friend saying about her condition? That she is still suffering from this neuritis at Bath, still suffering from the loss of the use of her hands, though she is saying that the use is coming back, and she is getting better. So during all those years this lady is worse, and better, and worse again and a little better; one arm bad and then the other, then both, then pins and needles, then loss of the use of feet, then loss of power in the hands; and so the history goes right away up to August, 1920. Then in August, 1920, a date is taken by the prosecution for a reason which it is very difficult to fathom, but perhaps one can guess it. On 1st August Dr. Hincks happens to see Mrs. Armstrong, if my recollection is right, not for the purpose of examining her, but he does in fact see her on that date. According to Dr. Hincks, she is well, as well as this poor lady apparently ever was. Then, so that you should be impressed from the beginning with what the case for the prosecution was, the Attorney-General in opening said, "1st August she is quite well. On the 4th August the prisoner buys three tins of weed killer; 15th August she is suffering from arsenical poisoning." What is the evidence about it? That on the 4th August he had nothing whatever to do with the buying of weed killer. You remember my cross-examination of Jay, the chief gardener: that Jay himself went and bought not three, but four tins of weed killer, that Jay himself used rather more than three and a half tins of weed killer, and that he left ½ lb., which he put into the tool shed. There is this great point for the prosecution. I am going to show you a most curious set of dates. Say the prosecution, 1st August quite well, 4th August he buys weed killer. The fact is, he does not, it is bought by his gardener. Once you get your mind full of suspicion, it is extraordinary how even the great counsel who are representing the Crown, the three of them in this case, how even they can be led away into making such a point as that. You see the object of testing cases. What a wonderful story, how impressive that, is not it? It must have impressed you when my friend put those dates before you—taking that one month and putting the dates in that way. When you come to test it, there is not only nothing in it, but the evidence proves that, as far as that weed killer is concerned, Major Armstrong had nothing to do with it.

On the 15th August the man who is alleged to be poisoning his wife sends for his doctor. That is a good start in a poison

case, that the man who is alleged to be administering the poison, of which there is no evidence, on the 15th August Major Armstrong sends for Dr. Hincks to come to his wife, and says to Dr. Hincks, "My wife is suffering, she cannot sleep, her mind is getting confused, disturbed, she has curious ideas, give her a sleeping draught," and from the 15th August he does. No evidence, as Sir William Willcox admitted to me on Saturday, no evidence up to 22nd August of any vomiting, no evidence at all. Then what does this alleged poisoner do? Having sent for the doctor, and put his wife into his hands, he then sends—an amazing poisoner is this—for the best friend of the family, Mr. Chevalier. He then sends on behalf of the person whom he is alleged to be poisoning, for her sister, Miss Friend; and Mr. Chevalier and Miss Friend arrive. This is the time, when I was cross-examining, when my lord suggested that I was taking too much time on the particular point; but this is the time when I submit to you the whole of this case is based. There is no question about it, it was opened in that way. The suggestion is that poisoning was going on at that time. He sends for the doctor, he sends for the best friend, he sends for the sister; and they all see the unfortunate woman who is suffering at that time. And (note this, because it will be important when you hear the medical evidence I shall call before you) suffering at that time not from general confusion of thought, not from madness of different sorts, all sorts of different kinds of delusions, but from the one perfectly clear-cut melancholia, acute melancholia. When you come to consider what I have already put before you, in my submission the case that Mrs. Armstrong took this arsenic herself, knowing what she was taking, is much stronger than the case against Major Armstrong. When Mr. Chevalier has come upon the scene he then and there forms the opinion that she was not sane, and he was a sensible man, you saw him in the witness-box; you are the judges of the demeanour of witnesses, except when application is made to cross-examine them, otherwise you are the judges of the witnesses for the prosecution and their demeanour. Was not Mr. Chevalier a level-headed, sensible man of the world, the oldest friend of Major Armstrong, who had known him since 1891? That is the man whom the prosecution would have you believe the major sends for to see his wife whom he is poisoning; this sensible gentleman coming there in August says this, "I formed the opinion then in August, 1920, that she was not sane, that she might commit suicide." Look at the position up to then, put the two cases side by side. The prosecution say, "Major Armstrong poisoning his wife." The defence say, and they have not got to prove it, but they have to say, "Look at the facts, Mrs. Armstrong probably committed suicide; look at the position in August, 1920, on the one hand you have a man who up to that date everybody agrees was a devoted husband." You have in

my submission to you no motive worthy of the name. On the other side, you have a highly hysterical woman, who has suffered for years from neuritis, indigestion, loss of power in hands and feet, in such a condition that at that early date, six months before death, Mr. Chevalier forms the opinion that she is not sane, she may commit suicide; and, says Mr. Chevalier to Major Armstrong, "You had better remove your razors." It is suggested that Major Armstrong at that time wants to murder his wife, wants his wife to die. If he did, what better than to leave his razors at her hand, or anything else by which she could commit suicide? Major Armstrong at once removed them, and Mr. Chevalier is so impressed with the fact that Mrs. Armstrong is likely to commit suicide, that he warns not only Major Armstrong, but warns the servant, Lily Candy. I got that not only from Mr. Chevalier, but from Lily Candy, that she was warned to keep her eye on Mrs. Armstrong.

That is the position in August. Mr. Chevalier, Miss Friend, Dr. Hincks, and Major Armstrong have a consultation that night, and on the 22nd August it is decided to send her to Barnwood. Up to this date not one scrap of evidence of arsenical poisoning, not one scrap of evidence of the administration of any poison by anybody. Then it is suggested that on 22nd August, when this woman is just going off to the lunatic asylum, when Major Armstrong has sent for Mr. Chevalier and Miss Friend, when he knows that his wife is under the charge of Dr. Hincks and she is going (do notice this) to be transferred into the custody of doctors of whom he knows nothing, that Major Armstrong administered arsenic. You are asked to assume that by Mrs. Armstrong's condition—you have to swallow something if you swallow this assumption—you are asked to assume, first of all, that Mrs. Armstrong was suffering from arsenical poisoning at that time. Once you have satisfied yourself beyond reasonable doubt of that, if you can, you have to be satisfied of this, that he was administering it; and upon evidence of that sort hangs this man's life. It is suggested on 22nd August that he administered to her arsenic. Why is it suggested? Because a woman suffering from acute melancholia is being removed from a home which she loved to an asylum, a woman who has suffered from indigestion for years, when being removed vomits and is sick on the way. I do not know whether you have had, any one of you, the great misfortune to know or perhaps to have some one dear to you, who has had to be removed to an asylum, but you will hear from the doctors whom I shall call before you that for a person who is suffering from acute melancholia it is by no means uncommon that those persons, when being taken away, and when realising that they are going to be removed from the home that they love, do suffer from sickness, so much so that I am instructed it is very often the custom to put in the conveyance in which that person is being taken some recep-

tacle in which the person can be sick. How did it strike Miss Friend? Miss Friend knew her sister as well, I suppose, as most people did. She said, "I thought it was indigestion; I thought it was an egg which she had had at breakfast which had upset her." And upon that evidence, and upon that evidence of vomiting alone upon that day, is the suggestion made that Mrs. Armstrong was suffering from arsenical poisoning at that date. Are you satisfied that she was, when you look at the history for the next few months? Even if you were satisfied that she was suffering from arsenical poisoning, have you got one iota of evidence that such arsenic was administered by Major Armstrong? It is for you, and I leave that date with you.

What is the other evidence, and I want to deal with it fully and properly, because no case for the defence is any good if you take the good points and bury your head in the sand and pretend that there are no other points to be met. What is the next point made about this arsenical poisoning? The next point is the murmur of the heart on the 22nd August, and the albumen in the urine upon the arrival at Barnwood. The murmur at the heart. All of us have the greatest admiration for the medical profession; I do not know what we should do without them; but, of course, in that profession, as in most others, you sometimes find that doctors do not agree. Dr. Hincks formed the honest opinion that the heart trouble which was in existence at that date was due to rheumatism. Dr. Spilsbury and Sir William Willcox both admitted to me in cross-examination that rheumatism will cause heart trouble. But when Sir William is cross-examined he says, "In view of what I know afterwards"—and here we come again to working back from February, no working it back at that time from January a year hence when the body is exhumed—working it back from then Sir William says, "I do not think the heart trouble which was in existence on 22nd August was due to rheumatism." Why not? What is there to show that it was not? Dr. Hincks thought it was. Dr. Spilsbury and Sir William Willcox agree that rheumatism extending over a number of years might cause it. Sir William says, "I do not think it can be caused by the sort of history of rheumatism which I have got." For years she had been suffering from rheumatism, she had heart murmur, which could have been the result of rheumatism, which Dr. Hincks thought was the result of rheumatism. Of course, these experts say that it might be the result of arsenical poisoning; therefore it falls in with this nice little theory which has been put before you by the prosecution. Albumen in the urine—of course, that is consistent with kidney disease, that is consistent with Bright's disease. The argument about that is this, "Oh, that cannot have been the result of Bright's disease or kidney trouble." I think you will hear, when the doctors come into the box, that from time to time, without any definite kidney trouble, most of us suffer from albumen; but because it was in

existence on the 22nd August, at the time this poor depressed lady suffering from acute melancholia was taken to the asylum, because it is in existence on that night, and continues to be in existence till 29th August, it fits in with this theory of arsenical poisoning, and, therefore, it is mentioned to you as another reason why you are to come to the conclusion that she was suffering from arsenical poisoning.

She arrives in the home. Now mark the real point which has been put by the Attorney-General in re-examination of witnesses. "About a fortnight after she enters that home," say the prosecution, and place so much reliance upon it, "she suffered"—and they hold up their hands as if they have discovered some wonderful thing—"she suffered from multiple neuritis." Look at our theory of arsenic now in August, 1920; look how it is getting on. Here we find her in September suffering from multiple neuritis. She had suffered from multiple neuritis, if I am right in the facts I have drawn attention to, for years past from time to time; not the result of arsenical poisoning then; if she had suffered from it for past years, she suffered from it as the result of auto-intoxication; but now this theory is started, now we have arsenic on the scene, therefore this particular multiple neuritis is the result of arsenical poisoning. You follow what this case is, upon which you are to be asked before many days to give your verdict? Sir William Willcox, when I was cross-examining, I think for the moment did not appreciate what my point was, and he said, "I shall have to give you a very adverse answer, because I shall have to tell you the worst case of multiple neuritis I ever had was after one administration of arsenic." It is exactly the answer I wanted, because it is the theory of the prosecution here that the administration was one dose on the 22nd August, and that that caused multiple neuritis. Sir William Willcox would have given that answer whether it was adverse to me or in my favour; but it happened that the criticism that it was adverse to me happened to be wrong at the moment, because I wanted to show that the prosecution were building up this case upon a false basis. The neuritis in September, they say, is the result of one dose of arsenic on 22nd August, or may be the result of several doses before that date. That is their case, quite a good case if she had not suffered from neuritis for years past; and this was a mere repetition of what she had in 1915, 1916, 1917, 1918, and 1919. She suffers, then, in the home; and she is in the hands of two new doctors, and these two new doctors examining her—it is so easy to be wise in the light of after events—these two doctors examining her, Dr. Townsend and Dr. Souter, come to the conclusion that there are movements of hers which she could not carry through if the neuritis at that time was not partly organic and partly functional. A step further. 1st October to 3rd November, or 3rd October to 3rd November, she

is given day after day 1/7th of a grain of arsenic, 1/20th three time a day; she is given approximately 1/7th of a grain a day for a month. If you have in your minds Dr. Spilsbury's evidence upon that, I want to test whether this story which is being put up would hold water for one moment. Look at it; upon those dates for thirty-one days she is given 1/7th of a grain of arsenic a day. So I cross-examined Dr. Spilsbury about it and I said this, "If she were suffering from arsenical poisoning at that time, and recovered from arsenical poisoning, I suggest that it would probably revive the symptoms?" He wouldn't have that; but said, "It would in my opinion retard her progress." I must take the evidence for a moment. Doctors I am going to call will tell you that in their opinion that amount if administered for thirty-one days would have revived the symptoms. Take Dr. Spilsbury—"would have retarded her progress." My next question was, "Supposing she were not suffering from arsenical poisoning at all, but that what she had been suffering from was from natural causes, would not you expect that medicine to act as a tonic and for her to continue to improve in health?" "Yes," said Dr. Spilsbury. My next question was, "Is not that exactly what happened in this case?" "Yes." So test it there —was she suffering from arsenical poisoning at that time? "If she was suffering from arsenical poisoning I should expect," says Dr. Spilsbury, "1/7th of a grain per day to retard her progress; if she was not suffering from arsenical poisoning I should expect that medicine to result in a continued improvement in her health." That is what happened—continued improvement in her health. Do you think she was suffering from arsenical poisoning in Barnwood?

So time goes on until we come to January, and then this husband, Major Armstrong, as regards whom up to that time, at any rate up to August, 1920, there is no evidence except that he was a devoted husband, up to that time when she goes to Barnwood—in January, 1921, he is desirous of having her back. Now, gentlemen, follow. During the whole of the time that she was at Barnwood he is going there as often as he is allowed to go. You remember the evidence of Dr. Townsend—"He came every time I allowed him to come, and every time he discussed with me and appeared anxious about his wife's health." Try and put yourself into the same position; try and imagine that you have your wife, to whom you are devoted, in an asylum. When you are in the dock charged with murder (because that is the position) and you have tried to get her out because you think she is better and you think home influence would make her well, that is a most terrific point against you. Apparently, when you are in the dock charged with murder, then every motive of the basest kind is laid at your door. It is said, "Oh, of course, you wanted to get her out of the asylum to kill her; of course, you wanted to get her away, and not only to get her out on leave so that the home should

not have any power over her." That is put against you if you are in the dock charged with murder; but is not it what you and I would do if we were in the same position and had that great misfortune to have a woman to whom one was devoted, writing letter after letter imploring to be allowed out, do not you think that the course that Major Armstrong took was the natural course? If it was consistent, as I submit it was, with innocence, you are not going to take the other view of it, especially when the man in the dock is charged with murder; not because of it; but especially you are not going to take that course unless you are satisfied of it.

The point is made, one of the points which were put before you last week, that the reason why he would not have a mere release of his wife from the home was because, to use the words of the Attorney-General, there would be another institution inquiring into her death if she happened to die; that is put against him. It is for you, having made up your minds—I have tried to put you into the position yourselves—having made up your mind to get your wife home, because home surroundings are probably going to put her right again, to say whether you would not have thought: it is no good having this poor woman out with this hanging over her head so that she knows that at any moment she may be taken back; if it is going to do any good let her come back free again, and if she goes off her head you can get her certified. Is not that a natural thing to do? Whether you would have done it or not, is not it a thing which a man quite reasonably might want to do? I suggest it is what we should all want to do; but if you do not go as far as that, is not it a thing a man quite conceivably might want to do? But no, that was part of this deep-laid scheme, because he would be afraid that that institution would keep some hold. Dr. Townsend was asked about this several times by my friend the Attorney-General, but stuck to what he said, "I should not make any inquiry at all once I was satisfied she was under a doctor, and that doctor had given a death certificate; if she had been still on my books I should not have made any further inquiry; I should want to be satisfied that she was under a doctor, and that doctor certified her death." So yet another point which is made is gone. Directly you test it, it disappears into the thinnest of thin air.*

So Mrs. Armstrong comes back again, quite well as regards hands and feet. Dr. Hincks said, "When on the 30th January I went to see the child, I saw her and talked to her, but did not examine her. When I saw her on the 30th January she was quite all right." Was she quite all right? What does Dr. Townsend say about her when she is being released? "We consider that the paralysis of the arms and legs was entirely functional; it is very much better, but not yet quite well." The prosecution have said

* The force and ingenuity of this argument are worth noting.—Ed.

from the beginning " arsenical poisoning in August; multiple neuritis as the result—comes back all right." Then they begin working at it again. Then, of course, there is more arsenic; so, of course, you get the return of the multiple neuritis. Gentlemen, that is absolutely untrue, because the multiple neuritis had never gone; it had got better, much better, but it was there in existence when she came back, and I do not only have to rely upon the letter which is put in by the prosecution; you have the evidence of Miss Pearce, who was treated as a hostile witness. The judge is judge of the demeanour of the witnesses, my lord rules entirely, and I obeyed at once to the ruling of my lord that she ought to be cross-examined, but you can form your own opinion as to whether she was not a perfectly honest old lady doing her very best to tell the truth here. She says the same thing as Dr. Townsend, when Mrs. Armstrong came back she was still complaining (I am using the words of Miss Pearce) of the pain in the hands and feet. Again the prosecution start upon something which is a false basis, as they did in August, 1920, and it is altogether wrong to say that on 22nd January, 1921, this lady came back cured. Their own evidence shows that she did not; she was still suffering from neuritis.

Now mark what happens. On 30th January she is seen by Dr. Hincks, who is examining the child. On 6th February the man who the prosecution allege had started again to poison his wife on that day goes to Dr. Hincks and says, " I wish you would come and keep an eye on my wife, she is not getting on." How do you deal with that in your minds? Is not it of great importance? Is not it exactly what you would do? The man who is charged with her murder, when she is getting bad again sends for a doctor and says, " Keep your eye on her." So on the 6th February Dr. Hincks keeps his eye on her. On the 11th February he examines her, and upon that 11th February when he examined her he speaks of the old symptoms all come along again, all of them consistent with auto-intoxication having caused multiple neuritis, and then you get the additional symptom, high-steppage gait. When you cross-examine about that you find that that is only another symptom of the same disease; it does not point to arsenic at all. Again I ask, on the 11th February where is the evidence of arsenical poisoning? At that time I suggest to you that this lady was in a suicidal condition of mind. I do not say that as a sort of theory like these theories which are put before you by the prosecution; I base it on the evidence. The evidence is that of Nurse Kinsey. Mrs. Armstrong had said, " If anybody threw themselves out of that attic window do you think they would kill themselves? " That is not imagination; that is a statement by the nurse who was attending her, and so gravely did that nurse think of it that she said, " This is a case for a mental whole-time nurse; I am not going to take the responsibility of it." She said in that witness-box, " I was afraid she might commit suicide."

Miss Pearce tells you that at that time, February, Mrs. Armstrong said the same thing to her about suicide. You remember there was also the statement that whilst in the home she had in her mind the throwing of herself out of a window from there. Again put the case into those parallel columns that I have asked you to put this case into, the possibilities on the one side and the other. You have the husband, who is showing every consideration in the way in which he is treating his wife, sending for the doctor, telling the doctor to keep an eye on her; not an atom of evidence that he was administering poison—that you have to imagine. On the other hand, you have the woman who had come out of the home full of hope that she is going to be better, who finds that that hope is doomed to failure, and that instead of getting better she has gone right back, and a woman who has got in her mind, it is quite clear, there is positive evidence about it, got in her mind suicide. It is nothing new, this suicidal tendency in February, 1921, because Mr. Chevalier had formed that strong opinion in August, 1920. So you are brought right up to the eve of the last and fatal illness of Mrs. Armstrong with, on the one hand, a woman who is off her head, suffering from acute melancholia, who has come out of the home hoping for the best and finding that that best does not come along and that she is getting worse; you find a woman who is threatening suicide, who is on the verge of doing something desperate apparently, and yet you are asked to say, in view of all that evidence, that the man who at that time everybody says was doing everything that he could for her, who was showing his devotion to her, and who was acting, as I hope I have convinced you, as a normal man would under similar circumstances—you are asked to say upon that evidence that the prosecution have proved that Major Armstrong poisoned his wife. I say to you, what I need not prove, that upon that date certainly the evidence points to suicide rather than murder. The whole of the opinions which have been formed by Sir William Willcox and Dr. Spilsbury are formed as the result of what Dr. Spilsbury found post-mortem and what is reported to Dr. Spilsbury and Sir William Willcox of the symptoms. That is what they have been formed upon.

Gentlemen, I am calling very experienced doctors before you, and, of course, their opinions are formed upon what they are told of the symptoms, just as much as Sir William Willcox's and Dr. Spilsbury's opinions are formed upon that. So it all depends, does not it, upon the reliability of the symptoms which are given to those gentlemen? Nobody in the world, I least of all, with my knowledge of them, would suggest that they are doing anything else than giving their most honest opinion, and I hope the prosecution will give the doctors I am calling credit for the same thing, but so much depends upon the symptoms which they have been given, and, without my going back over it all, do you think

they have been given quite the full symptoms of this lady's life from 1915? Do you think if they knew as much as you do about her medical history they would not have come to the conclusion that the multiple neuritis was something which she was suffering from for a number of years?

But now we come to the last fatal period, and the evidence upon the questions of symptoms practically depends upon Nurse Allen's evidence—Dr. Hincks's, of course, from time to time. Nurse Allen says that Mrs. Armstrong went to bed on 13th February, and never got up again. She is absolutely wrong, because I am going to call before you not only, of course, Major Armstrong, but a lady who has no interest in this case whatever, Mrs. Price, who is the wife of the bank manager at Hay, and she will tell you —and will tell you why she fixes it—that on the afternoon of 14th February, Valentine's Day, she sat with Mrs. Armstrong when Mrs. Armstrong was out in the porch. You remember the evidence of Miss Pearce about it. Mrs. Price will be called, and she will tell you that she was there for about three-quarters of an hour, and will tell you how she fixes the day. That corroborates what Miss Pearce has said, the lady who was treated as a hostile witness, hostile to the prosecution. She says on the 14th of February Mrs. Armstrong was out of doors seated in the garden. But Nurse Allen, upon whom these doctors have to rely chiefly for their symptoms, her recollection is that Mrs. Armstrong went to bed on the 13th, and never got up again. Do not think I am attacking Nurse Allen, do not let anybody think I am suggesting she is committing perjury, I am doing nothing of the sort. I am saying that her evidence is unreliable, not because she is dishonest, but because, as she said herself, I have had a great number of cases since then, I have got no notes. She is wrong when she says that Mrs. Armstrong was in bed from the 13th of February onwards. Then she goes on to say this, "On the 17th, the Thursday, Mrs. Armstrong became worse, and the doctor was telephoned for." She is wrong again. Wherever you can test her she is wrong. You remember that with regard to this date I asked Dr. Hincks whether he could produce his attendance book. He proved conclusively that it was the 16th that he was telephoned for at the instigation of Major Armstrong—the second instance where Nurse Allen's memory is at fault. Then we come to the all-important time about which we have heard so much. Nurse Allen says, and upon this a great deal of the evidence of Sir William Willcox is based, that during the last two days she suffered from violent diarrhœa. That is Nurse Allen's evidence. You can only test a person's evidence by what happens to be given you to test it with. Here you get one of the best examples of a testing of the witness's evidence, because you get Nurse Allen saying, for the last two days diarrhœa—and, fortunately, Nurse Lloyd took over her duty for ten hours. We cannot test Nurse Allen's evi-

dence except during those ten hours, because there is no one we can test it by. She says, "Diarrhœa for two days." I have already got her wrong about the 14th February, already got her wrong about the 16th and 17th; now let us test her two days. Nurse Lloyd takes over at ten o'clock on the Sunday night, thirty-six hours before Mrs. Armstrong died. Do you find violent diarrhœa existing for the last two days? Nothing of the sort. "One motion during the night." She does not even say that was diarrhœa—one motion during this ten hours during which Nurse Lloyd was on duty; twice she vomited, and from two o'clock onwards until eight, when Nurse Lloyd went off duty, no vomiting, and during the whole of those ten hours one motion only. Where is this theory upon which these experts are basing their evidence? Two days diarrhœa. When you come to test it in the only way you can, what is the result? Thank God, Nurse Lloyd did take over for ten hours, otherwise there would have been no method by which I could test that evidence, and you would have been left with that statement of Nurse Allen's untested if it had not been for that most fortunate fact that Nurse Lloyd took over duty for that ten hours. Testing Nurse Allen's evidence, she is wrong about the 14th February, wrong when she says illness started on the 17th, that the doctor was telephoned for on that day, and she is wrong, absolutely wrong, about this vital matter as to whether or not for two days before the end this unfortunate lady was suffering from severe diarrhœa. On that 16th February, I suggest and impress upon you—I have not got to prove it because I cannot, nobody could prove it; I can no more prove that Mrs. Armstrong committed suicide than the prosecution can prove that Major Armstrong poisoned her; all I can do is to show you, as I hope I am showing you, the probabilities. I hope I am showing you that if you take the probabilities, instead of their being in favour of the prosecution, they are all in favour of the defence. Arsenic upon the 16th February was in the house, and I am going to deal with the whole history of the illness first and then come back to the other two matters. Arsenic was there, and Mrs. Armstrong knew where it was, and could get at it. She was downstairs on the 14th February, for all I know she was downstairs on the 15th, because she was out in the garden on the 14th, and, according to the evidence of Nurse Allen, she was never up from the 13th. The evidence of those two last days is vomiting, violent vomiting for two or three days, and diarrhœa to finish up with. I have dealt with the question of diarrhœa, because in my submission you could not really, if you were sitting here as a jury to determine whether somebody had to pay somebody else £50, rely on evidence such as Nurse Allen's, and certainly you cannot rely on it when you are dealing with a question of life and death. Gradually at the end she is sinking, undoubtedly from the 18th, and I do not dispute it, and never

have; I have never asked a question in cross-examination about it, that from the 18th up to the 22nd that poor lady was as near death as she could be. It is a small point again, but do not forget it, it has just occurred to me: on the 18th February Dr. Hincks said he told Major Armstrong that his wife was dying, yet you are asked to believe, although he told Major Armstrong that his wife was dying, that he is poisoning her every day—I do not know when—nobody suggests when, you have to guess that; you have to guess how, but it is suggested that he is poisoning her right up to the 22nd. I put the case for the defence in as clear a form as it could be put to Sir William Willcox on Saturday, and what I put to him was this, supposing a person on the 16th February takes a large dose of arsenic, is it possible for that person to live for six days; is it possible that person during the 17th, 18th, and perhaps the 19th should suffer from violent vomiting; is it possible that after that violent vomiting it should gradually become less? Then I said, would that person be able to retain food at any time up to the end? Sir William said, and I have a shorthand note of the cross-examination of Sir William Willcox, that he would expect that the condition of the stomach would be such that she would be able to retain but little; he did not say none. I said, would you expect to find that that person gradually sank and died without the administration of any further poison? And, having got so far, I then put, would you expect to find in such a person, post-mortem, disease of the kidneys? Yes, he said, it is what you found here. Would you expect to find the liver with most of the arsenic left in the body in the liver?—Yes, it is what you found in this case. Would you expect to find, and this I put to Dr. Spilsbury, traces of arsenic in such a case in the intestine and in the cæcum? "Yes," said Dr. Spilsbury, "I should." The only point on which they say what is described by my lord as a supposititious case——

Mr. Justice Darling—I said that this was a hypothesis, and so it is.

Sir H. Curtis Bennett—I thought your lordship said the word I used.

Mr. Justice Darling—I know what I said.

Sir H. Curtis Bennett—You will remember, gentlemen, what was said; I do not mind what the word was which was used. If I am wrong in using the word I did I am very sorry.

Mr. Justice Darling—I thought the other word seemed a sort of reflection on the person who is putting it—I used a perfectly neutral word.

Sir H. Curtis Bennett—Gentlemen, do not misunderstand me; I hope my lord does not misunderstand me. If in the course of a somewhat lengthy dealing with this evidence I have used some expression which was not used by my lord I regret it. The case which was being put, call it what you like, was a case which

absolutely fitted in with the facts of this case except the question of finding arsenic in the alimentary canal, and the quantity of arsenic which was found in the intestines, the cæcum, and the ascending colon, and so upon that (and remember here you are dealing with a man's life) you are dealing with opinions based upon reports of what is found, based upon symptoms which, I have already shown, you cannot rely upon, symptoms given by Nurse Allen; but I must deal with it because it is the case upon which you are asked to determine your verdict. So I cross-examined Sir William Willcox and Dr. Spilsbury as to whether it was not quite possible that of the arsenic which was taken, some of it goes through the body, part of it being absorbed on the way, and that some of it may become what was called encysted, encapsuled as you will hear it described by the doctors I am going to call, and gradually release itself so that you get what you found here, a continuous line of arsenic throughout the body, and you will find there disease of the kidneys; you find it in this body, disease of the liver; you find it in this body, absorption of the greatest part of the arsenic which has gone through in the liver; that is what you find here, 2 grains found in the liver, and you find everything that you would expect to find in this case except this question, which is a possibility, that some of the arsenic gets encapsuled on its way through and gradually releases itself. Are you going to say that that did not happen? You would have found the intestines empty. You did find the intestines empty here. Is not that much more likely when you bear in mind all that I have asked you, all the story that I have told you as to the condition of the woman? Is not the story much more likely than the theory of the prosecution that this man, for no reason, at a time they cannot name, in a way which they cannot suggest, was poisoning his wife?

Now, on the 22nd February, the death, and nothing more is heard of this matter at all until October. I am going to deal with one or two dates in between, and to deal quite shortly with Mr. Martin. You saw Mr. Martin in the witness-box. I am not in the happy position of being able to know what sort of view you had of him, what you thought about his demeanour in the witness-box, whether you thought that he was a vindictive man or not, whether you thought that he was a man who certainly was not going to say one single little thing for his late brother solicitor in Hay; he would not give him credit for the smallest thing, he was very careful in the witness-box when I put what he had said and said, is that a fair way to put it? He said, it is not. So I said, put it in your own words, and you will remember he used several identical words that I had used. That is the man. It is said of Mr. Martin that Major Armstrong had some motive to get rid of him. Have you ever read any detective story book or any stories of murders? I wonder what you would think of the one which had this motive? You would throw it away; you

would refuse to go on reading it. Did you ever hear of such a motive? If one is going to take motives, the motive of Mr. Martin to get rid of Major Armstrong would have been a great deal stronger than the motive of Major Armstrong to get rid of Mr. Martin. Mr. Martin was the new-comer in Hay, the man who had only just started off, not very well known in the county; the other man was the man who was received in the county, a member of two county clubs, clerk to the justices, a very nice position. When you are talking about motives, what a much stronger motive there would be for getting rid of Major Armstrong. But, seriously, I must deal with this motive, because it is the motive which is put before you. If Major Armstrong tried to poison Mr. Martin because of the motive suggested by the prosecution here, then there is only one proper verdict I suggest to you, and that verdict would be that he was insane. Can you imagine that any sane man would try and poison Mr. Martin because of this trouble over the Velinewydd estate? Look what it comes to when it is tested. I am going to show you upon the evidence that Major Armstrong cannot have tried to poison Mr. Martin, but let us deal with the motive. It is said that because these two solicitors had got some transaction on together which is not going on very satisfactorily, and because Martin is saying, my clients want to rescind this contract, therefore you, as stakeholder for my clients, will kindly return the stake money, it is suggested that Major Armstrong (he must have been hopelessly insane, as I said, if he said such a thing) said, I will get rid of this man, he wants the stake money back. It does not occur to anybody that another solicitor would take up the position directly afterwards. Still, here is the motive. After all this searching by the Crown this is the motive seriously and at some length put before you by the Attorney-General last Monday. 20th October—my friend seriously read out to you a letter which is written by Mr. Martin to Major Armstrong saying, my clients rescind this contract, and therefore you are to return the stake money. On the 26th October Major Armstrong, the very day of this tea—no tea ever got such notoriety as this tea did on the 26th October—on that very day Major Armstrong writes back saying, "My clients do not consent to your clients rescinding this contract, and it has got to go on." I assume that none of you are lawyers, gentlemen, but you do not require to be a very great lawyer to appreciate what I was able to get from Mr. Martin in cross-examination. You cannot enter into a contract for the purchase of whatever it may be, a farmhouse, a horse, or a pig, when a man is going to buy your farm or your horse, and then he can merely come along and say, "I am going to rescind that contract." You may have lost £400 over the deal, and all he has to say, according to Mr. Martin, is, I rescind the contract, and if anybody is holding the stake money he has to hand up that money. The law may be an ass, but it is not such a big ass as that. When a contract has been

entered into, of course, Mr. Martin had to admit, the contract stands until it is rescinded by consent. If you and the purchaser like to say, let us call the deal off, there is an end of it. but otherwise it can only be rescinded by the side who wants to get rid of it, in the case I am putting, by your purchaser, bringing an action to rescind; otherwise you can hold him to his contract. Of course, that is the law. But Mr. Martin writes and says, I want to rescind the contract; hand back the stake money. Major Armstrong writes back on the 26th saying, my clients do not consent to rescind the contract. What do you find? The next move between these two solicitors lay with Mr. Martin then to say, all right, if you will not consent to the rescission of the contract, my clients will make you by starting an action. He does not do anything, and he waits until the 10th December, and on the 10th December Major Armstrong issues a writ to enforce that contract, and that is said to be the motive why Major Armstrong should want to poison Mr. Martin. So kindly disposed was the man to a man of his own profession and of his own branch of the profession on his trial for his life, so kindly disposed was Mr. Martin that he makes a point to you, or tries to, that that writ which was issued on the 10th December had not been proceeded with, when he knows this man has been awaiting his trial for murder.

What is the evidence of the 26th October? Everybody has said, Sir William Willcox, Dr. Spilsbury, Dr. Hincks, that the symptoms of the illness from which Mr. Martin suffered were consistent with gastric enteritis. There is no symptom in this case which should be pointed to by Sir William Willcox or Dr. Spilsbury when I put the question to them, to distinguish the symptoms from gastric enteritis set up by something. The whole of this depends upon 1/33rd of a grain of arsenic in the urine. What conclusion have you come to about that? Major Armstrong is not being tried for trying to poison Mr. Martin; you are not trying that; you will not be asked for your verdict (I dare say you are surprised) upon the question whether or not Major Armstrong tried to poison Mr. Martin; that if you please is just a little bit of evidence for you to consider to throw light on whether he murdered his wife nine months before. You will appreciate that; that is why that evidence is before you, to rebut any suggestion made of accidental death or, I suppose, in this case, suicide of the wife in February, 1921. It is just to help you to make up your minds as to whether the prosecution have proved that—they have to prove that—it does not matter twopence about Martin, but just to help you to come to the conclusion whether or not they have proved it you are allowed to have this evidence about Martin. It has been admitted by my lord, and one must deal with it. What is the actual evidence on the day about it? 26th October, appointment made for tea. What is the evidence? The evidence is this, that Major Armstrong and Mr. Martin were extremely busy;

they both used to go from their offices back to their houses to tea. Major Armstrong would have to pass Mr. Martin's house to get to his house; therefore Major Armstrong says, as we are so busy, you come up to tea. Mr. Martin says, yes, I will give you a lift in the car; Armstrong says in the morning, no, because I have two men to meet up at my place; so Major Armstrong goes home to his tea. It must be suggested that after that food was taken into the drawing-room on that evening Major Armstrong dropped arsenic on to the scones.

Mr. Justice Darling—Not necessarily on to the scones.

Sir H. Curtis Bennett—On to something—I am obliged. The real case which was put originally was the buttered scone, because of the handing of it, so that he was bound to have it; that is the real case, but I quite agree it might be suggested he put it on any of the food. What is the evidence? Major Armstrong arrives back, and is seen by MacGeorge to arrive; he goes straight to him and talks to him, and MacGeorge's evidence is that he went just inside, hung up his hat and coat, and came out immediately. Do you think there is any sort of evidence that he put arsenic, even if he wanted to, on Mr. Martin's food then? There was no opportunity. He is then out in the garden with MacGeorge right up to the time when Mr. Martin arrives. That is not in dispute. Then Mr. Martin and Major Armstrong go round the garden together, and they go into the house together. Up to that time in my submission there has been no opportunity, even if he desired to do so, and I have already dealt with what I submit is the ridiculous proposition that he did—no opportunity to have put poison upon that food, food which he had not at that time been near if you believe MacGeorge that all he did was to go in and come out immediately. They go in together and sit in the small bay window. Is it suggested that Major Armstrong put something upon the food there? There is no evidence that he did; it is extraordinarily difficult to know how he could do it without being seen. Mr. Martin leaves. I do not care whether he said he was feeling off colour or not. He goes off home, and three and a half hours later, rather more, nearly four hours afterwards, he is sick for the first time. You will hear from the medical gentlemen I am going to call that if in fact he had had arsenic, what is possibly a fatal dose, at half-past five or anything like it, he would not have eaten dinner at half-past seven, and would have been sick long before four hours. The time when he was sick is much more consistent with having something which did not agree with him at dinner. Have you noticed when one person is ill in a household counsel always gets up and says, nobody else affected by the food. Nobody suggested that everybody was affected by the food. You know in your own homes it is very often one person happens to be sick or bilious after some meal; there is no point in saying, were you all sick? That does not explain it. Because Mrs. Martin was not sick, it does not account

for what happened. Mr. Martin is ill for three or four days. Then this sample of the urine is taken. You will hear from medical gentlemen I am going to call about this. You will hear as regards that 1/33rd of a grain, that from the bismuth, from the sulphate of magnesia, from the bottle, peroxide of hydrogen itself, it is quite possible to get sufficient arsenic to have accounted for the 1/33rd of a grain which was found in that bottle. If you are going to take a test at all, you must take it under the most stringent rules. You will hear that the proper way to have taken the test of urine of this sort would have been to have cleansed the bottle over and over again, and to have taken the last sample of the water which you used for cleansing and sent that up with the urine, and if you found there was no sign in that, you would find that at any rate your bottle was pure. That was not done. A bottle which had contained peroxide of hydrogen, which would itself contain some arsenic, was the bottle which was used. Sulphate of magnesia Mr. Martin had taken the very day before this sample; and you will hear the proportion of arsenic to sulphate of magnesia frequently. I am not going to anticipate it. You will also hear about bismuth. That sample of urine was in my submission to you, when you have heard the evidence, in the highest degree unsatisfactory in the way in which it was taken. I have already pointed out, even if there was arsenic in Mr. Martin at all, you have to be satisfied that Major Armstrong put it there; and then you are not trying the case. It sounds, in my submission to you—I want to use no improper expression, but it sounds almost Gilbertian. You have to decide whether he had an opportunity of putting arsenic in, whether he did put it in, whether Mr. Martin swallowed it, whether the arsenic which was found is accounted for by medicine or an unclean bottle; you have to consider all these questions—for what? Not to form a verdict upon it, not to express a view upon it, but for the purpose of throwing some light on whether or not he murdered his wife in February. From that moment in Martin's story every point, and I am not complaining of it—every man who stands in the dock has every point that there is put against him, and quite properly so. They say a most awful thing happens; after this Armstrong changes his habits and goes and has his tea at his office instead of at his house, and does that for the purpose of trying to inveigle the unwary Mr. Martin over. What do you find? That Martin did exactly the same thing, and altered his tea to his office. It is not suspicious for Mr. Martin, that is a very natural thing in a witness for the prosecution. It is not unnatural for Mr. Martin to change; but it is a terribly suspicious thing when it happens to the man in the dock. Why? Is not it precisely the same? Was not the reason which was given by Martin the good and sufficient reason that they were both of them very busy, and that is why they changed?

Opening Speech for Defence.

Sir H. Curtis Bennett

There are two other matters I will deal with quite shortly; one is the motive suggested by the Attorney-General as being the motive why Major Armstrong should want to murder his wife—the will. During the war, in January, 1917, Mrs. Armstrong had made a will; you need not worry for the moment about the details of it. That will was drawn up, £50 a year left to Major Armstrong till 1933, then £100 to Major Armstrong; and, subject to that payment of that £50 and £100, certain sums left to the children at certain times. In July, 1920, there came into existence another will. My friend the Attorney-General, in putting this so-called motive before you, said this, "In such a hurry was Major Armstrong to get that will signed that he did not even wait to get the witnesses there together." Such a hurry to get that will signed—8th July, 1920. What did my learned friend mean by that? With very great respect, is not that pure imagination? Where is the evidence that he was in such a hurry? It doesn't take any longer to call two servants into the same room; perhaps it takes rather less time to call two servants into the same room to get them to sign than to have one in one room and one in the next. In such a hurry to get the will signed that he doesn't trouble to get them together. That is the way it was put last week, that he was trying to get the whole of this property, some £2300, into his own possession. What is the evidence now? In 1919 at Bath Mrs. Armstrong had said to her sister, "I don't think I have left enough to my husband; I am thinking of altering my will." The undoubted suggestion about this was, though it has not been very definitely put, that this was a mere bogus will. Bath, 1919—"I don't think I have left quite enough money to my husband; I am thinking of altering my will." The evidence as to the signing of the will—what is it? The witness was treated as hostile, hostile to the prosecution. What she said was this, "Major Armstrong and Mrs. Armstrong were present together when I signed this will," and you will remember the action of Miss Pearce giving evidence. She had the will in front of her in the box, and she said, "Mrs. Armstrong put her hand on it, told me where to sign it, and then said, 'There is Lily Candy; she will sign.'" That will was signed by Lily Candy. Perhaps you did not understand why I put that insurance card to Lily Candy. I was not suggesting that that was a document, in the ordinary sense of the word a document; I only put it to show how easy it is to forget how signings are done. Remember, this is a long time ago. It is July, 1920, about a matter which would not attract particular attention. Try and think for a moment yourselves about some incident which happened in 1920, and see whether you would like to be called to say exactly in which room you were talking to a person on a particular day. Pretty difficult, isn't it? What happens to that will? It is proved, and, having been proved, I ought to say in passing perfectly openly and properly proved, went through the office in the

ordinary routine; you remember Miss Baker spoke about that, in fact, it was identified with the other documents by Mr. Martin, who signed it, and his name appears on the will; it is proved, and probate is granted to Major Armstrong. The motives, say the prosecution—he wanted to get the poor woman's money. He got it, and he doesn't spend one farthing of it. The attempt was made on Saturday to put this motive on its feet again by the calling of Mr. Taylor. All Mr. Taylor proved was this, that whilst Major Armstrong was abroad there was a debit balance in the account which was, as I dare say many of our accounts are, sometimes in debit and sometimes in credit. This was a debit balance at that moment; so his clerk deposits these bearer bonds in the name of Mrs. Armstrong—why they had not even been transferred to his own name—deposits these securities as against the then overdraft, and when Major Armstrong comes back he pays off the overdraft and the bank is in credit. From that time it is in credit and debit away till February of this year. The securities are left there, not one penny piece of them is used. In February of this year—perhaps you will not think it was a very extraordinary thing that it was desired by Major Armstrong to realise some securities for the purposes of his defence. At that time he is going to sell some of these securities, an embargo is put upon them, and the result is that the estate is still absolutely intact. That is the motive that the prosecution say, and my friend the Attorney-General last Monday said here, "Who is it that had the motive to get rid of this woman?" and pointed his accusing finger at the prisoner in the dock. What do you think of the motive—the will was signed by Mrs. Armstrong, signed by Miss Pearce at Mrs. Armstrong's request, and, if you believe Miss Pearce, signed by Lily Candy; according to Miss Pearce, Mrs. Armstrong pointing to her saying, "There is Lily Candy, she will sign." Having been signed, the object for which the prosecution suggest this ghastly murder took place, it is put in the possession of the alleged murderer, and there it remains, and not a farthing of that money was spent by him at all. That is one motive.

The other motive which it is suggested is the motive, is in my suggestion, and all I say to you is for the purpose of your good consideration—it is not for me, I am glad to say, to determine this case—the other motive which is put forward is fantastic, that that respectable lady whom you saw in the witness-box last Thursday might become his wife. It is suggested, I suppose, that Major Armstrong murdered his wife so that he might at some future time marry that lady. What do you think of that being put forward as a motive in this case of murder? Those are the only two motives that, searching high and low throughout the country, the prosecution are able to put their hands upon. They cannot suggest an unhappy married life; they can suggest nothing

against this gentleman at all except these two motives: the will—and when he obtains the money he never spends it—and that lady who said, "Major Armstrong was a friend of my family, my mother, aunt, and niece; he visited at my house; we wrote letters to each other; he told me he was married, that there were three children; he told me apparently that he was happy in his married life; and not until May last year, four months after his wife's death, did he ever say one single word to me, never a word of indecency to me; but at that time he did say, 'If you should ever want another home you know where you will find one,'" or words to that effect; a sort of half-proposal of marriage, which was not accepted, and which, according to that lady, and she is a witness for the prosecution, never has been accepted. She was considering it, because she had a great number of family ties. Gentlemen, in a case where the issue is the greatest issue that we human beings know, the issue of life and death, in such an issue as that, what do you think of that motive? I will leave those matters.

The other matter I want to deal with, and I will put it equally shortly before you as the question of motive, is the purchases of arsenic by Major Armstrong. I am not going to worry you with the earlier purchases; I quite agree with what my lord said on Saturday, the earlier purchases do not matter at all, 1912, 1914, and the next of importance is 7th June, 1919. On that date you will hear from Major Armstrong he purchased ½ lb. of arsenic from Mr. Davies, that it was coloured with charcoal, that he used 6 ounces of the 8 ounces of that arsenic for weed-killer, that the remainder was the arsenic which was found in the cupboard in the library, the 2 ounces which you gentlemen have seen; that some of the weed-killer still remains in the bottom of those two bottles, that the weed-killer was used by him, that he had the prescription for that weed-killer which was found in the garden file—I must not forget to say a word about that—that he made that weed-killer after experiment, and that he found exactly the proportions in which to use it, that in the summer of 1920 he was far too worried with the condition of his wife to worry about weed-killer that he left it to Jay. You remember the evidence—Jay bought it; that in January, 1921, from the 11th he purchased from Hird at Davies's shop a quarter of a pound of arsenic, which was coloured. No point, and again let me say I am not complaining of it, but it shows to what a pass the prosecution are put in this case—no point is left out. The Attorney-General says in opening this case, "Fancy buying weed-killer in January," and, when you get the evidence of Jay, he says, "I would very much rather put down weed-killer in the open January than when the weather became thoroughly hot"; and Jay goes on to say, "I discussed the question with Major Armstrong, and, having discussed the question, Major Armstrong bought that white arsenic on the 11th January, intending very shortly to use it upon the paths. Having

purchased it, he puts it as he bought it in the two white papers in that secret cupboard, and leaves it there, having forgotten at the time he purchased that that he had in fact got put away in one of the caustic soda tins the 2 ounces left in 1919. If he was a poisoner, he would have known, would he not, that he had got arsenic in his possession; he would not have forgotten it. But as he is an honest man, and a respectable man, as I suggest, it is quite likely in one's multifarious duties one would forget that one had got a little over from two years before. He puts into that cupboard that packet unopened. His wife dies, he goes abroad, he is abroad in March and April; he returns in May, and goes to that cupboard, and he will tell you that going to the cupboard he found the packet of white arsenic with no string upon it, looking as though it had been opened. You will hear that Mrs. Armstrong knew, and always knew, where the garden material and stuff were kept in that library cupboard. He saw in May that that packet had no string on it, and looked as though it had been opened. There was nothing to attract his attention particularly about it then, because he, as an honest man, had no idea that somebody in some months to come was going to say that he had poisoned his wife. He had no idea that there was anything suspicious about it; but he did note that. Then he added that he took that white arsenic and divided it into two packets, 2 ounces as near as possible in each portion—I am not suggesting that it was weighed absolutely to a grain. He put one 2 ounces into one of the papers and one 2 ounces into the other paper. One part of 2 ounces he used by splitting it up into a number of little tiny packets, like the one you have seen produced here; he split them up into those little packets to use them. Now, gentlemen, I am going to tell you how he did use them. That is why I complain that the search made by the police was not a thorough search. When Major Armstrong was arrested early in this year, his defence was, "I had the arsenic for the purpose of making weed-killer." Why is it that that receipt was not produced? Why is it the police did not see the last page of the 1920 diary, the entry showing the proportions in which the weed-killer had to be mixed with water, showing that that was in his mind at this very material time, the death in February, 1921? In the last page of the 1920 diary is this entry, which Detective Sharp said he had not noticed till I drew his attention to it; but he should have noticed it. These packets having been made up, he used them in the way which it has been suggested by the Boundary Chemical Company you could deal with plantains. He had at one time had an instrument which apparently you dig down by the side of the plant, and, as I understand it, it is a sort of hollow tube, and having put this tube down to the root of the plantain, you pour your poison down to that, so that it does not destroy any of the plants around, but merely goes to the root of that. You will have it described to you, in fact, there is an advertisement of that in this file. He had that

instrument before the war, but that had rotted from damp; and last summer you remember what Jay said, "We are very troubled with plantains on that lawn." Major Armstrong made up these little packets of arsenic, made a hole down the side of the plantain, and dropped the poison down to the root of the plantain. He carried those packets about in the inside pocket of his garden coat, and he was under the impression that he had used all of those packets; and it so happened that on 31st December last he was going to work in the garden, and he had on that same garden coat which he had used during the summer and had used during the autumn. He had in his pocket business letters and private letters. He had no idea there was one of those little packets left, and that little packet was caught by the envelope on the inside of an envelope, and it had been caught up from his pocket, and was found in the way in which it was. That is what happened to one-half of that arsenic. What happened to the other half? This is what happened. I care not how many witnesses they call to say, "We pulled out the drawer"—you will see the drawer when it becomes evidence—"I could see right to the back of it," says Mrs. Price. I care not. The evidence which will be called before you is this, that Major Armstrong, having separated those two packets in May for safety—no wife then to look after the children—for safety took that other little packet and put it with a piece of what we call blue draft paper all round it, because the white paper was not particularly strong, the arsenic was oozing out; he put it into this little bottom drawer, which is not the key drawer at all, the key drawer to which people would go and get the keys, to which Mrs. Armstrong used to go and get the keys, is not the drawer in which this arsenic was found. According to the evidence I shall call before you, the key drawer was on the left of this drawer. He put it away there, and thought no more about it. This is so important that I know you will follow this. On the 31st December he is arrested. On the next day, the 1st January, he remembered this little packet, and remembered that he had not told Detective Inspector Crutchett anything about this packet, and that he had muddled the 1919 remains in the cupboard with the 1921 remains; and you will hear that on that very next day, if it is going to be suggested that this arsenic was placed there by somebody for the defence, or on behalf of the defence, bear in mind what I am now telling you, that on the 1st January Mr. Matthews, a solicitor of repute, a highly respectable member of an honourable profession—to Mr. Matthews Major Armstrong upon the 1st January made a statement—I am not entitled to tell you what it was, but the result of the statement was that Mr. Matthews went up to Mayfield into this room to this very drawer for the purpose of finding that small packet, and he will tell you that upon the 1st January Miss Pearce was there, and she pulled this drawer slightly open, sufficiently so that you could see into it, and that Mr. Matthews looked into that drawer, and

there was no packet in it to be seen. The result was that from that time Mr. Matthews and Major Armstrong both thought that the police had found it and were in possession of it; and, believing that, it is of great importance that day after day, week in and week out, in the newspaper reports of the proceedings at Hay, Mr. Matthews was asking my friend Mr. Micklethwait for the police to produce a list of what they had taken from Mayfield, because they were wanting to find out whether the police had in fact got this packet or not. Mr. Matthews thought that they must have got it, because when he had looked into the drawer upon that Sunday it was not there; and finally, the list coming along, it is found that it is not shown; and so on the 9th February Mr. Matthews was again at Mayfield, and upon that occasion he found what had been seen by his clerk before, the garden file which I suggest to you ought to have been produced here. On the 9th February he goes up, and Mr. Matthews saying to himself, this is an extraordinary thing; here was I told on the 1st January of the existence of this; I went to search for it; it wasn't there; the police do not produce it; I press and press and press for a list of what they found; it is not upon the list; and he again goes to that drawer, and, instead of doing what he had done before, and what I suggest the police have done, looking inside it, Mr. Matthews put his hand right away to the back—and you will find it is not an easy thing to do—right away to the back of it searching for a secret drawer, or something of that sort; and right at the back his fingers came upon paper caught up, the corners caught up. I haven't got the drawer here, so I cannot show you how. Supposing *that* is the back of the drawer, the paper caught across there, so that this was sliding backwards and forwards by the drawer being pulled backwards and forwards. He felt that there; and he will show you how it was caught up. His clerk was there. They were dumbfounded; they knew not what to do about this. I ought to have told you this, that on the 1st January Mr. Matthews will tell you not only was he told by Major Armstrong that that packet was in the drawer, but so important did Mr. Matthews consider it that he at once consulted on the 1st January my friend Mr. Bosanquet about it. On the 9th February it is found. What did they do? It is a very difficult position. I do not know whether it is going to be suggested that Mr. Matthews ought to have gone straight off to the police, defending a man for murder, and say, "You have made a pretty bad search here." He took advice, and the result of the advice that he took was, that having left it in the position in which it was, on the 14th February he took Dr. Ainsley, whom you know better than I do, a gentleman of repute, took him over with him, and he and Dr. Ainsley removed that little packet with the blue paper round from the position at the back of the drawer; they put it into a tin; they sealed the tin; brought the tin away; it was opened in the presence of another doctor, a sample taken out for the purpose of analysis

—I shall prove its analysis—and it was re-sealed in the tin; I do not know whether you saw me break the seals just before I put it in; the tin remained sealed up until it was handed to me in this Court last Thursday. That is what happened. The police can say as much as they like, "We searched; we searched thoroughly." From the 1st January that was known to Mr. Matthews and Mr. Bosanquet that it was said to be there, and time after time, you may remember it yourselves if you have read any of the accounts of this case before you knew you would have the misfortune to be on the jury——

Mr. Justice Darling—You had better not say that, for this reason: if they have read accounts of what happened in regard to one thing, they may have read accounts of what happened in regard to another.

Sir H. Curtis Bennet—I am much obliged. Gentlemen, I am quite wrong in referring to anything you may have read; I am sorry I should have made two mistakes in three hours. I accept at once what my lord said; I have no right to tell you to use anything you may have read before; I ought not to have said it.

Remember that when you come to deal with whether or not Mr. Matthews is an honest man, and his clerk is an honest man, and Dr. Ainsley is an honest man, do not forget that the evidence will be that that was known to Mr. Matthews, who consulted Mr. Bosanquet on the 1st January; that the evidence will be, and I do not think my friend Mr. Micklethwait who was conducting the prosecution will dispute the fact, that over and over again pressure was being made, not improper pressure, and the things were not being improperly withheld, but Mr. Matthews was asking for a list of what the police found, because he wanted to know whether they had found this packet. It is for that reason he makes this final search.

Now, gentlemen, I have finished. I have told you what the story of Major Armstrong is going to be. I have dealt with the finding by Mr. Matthews and his clerk and Dr. Ainsley of this packet. I have told you in addition I am going to call Mrs. Price, the wife of the bank manager, also to call one witness, a servant who was in their employ in 1919, who will speak about making the weed-killer, and also as to the rheumatism which Mrs. Armstrong was suffering from in 1919, and so on. Then I shall call the three doctors whom I have named, who will tell you what I have already said, that in their opinion this death resulted as the consequence of one large fatal dose of arsenic having been taken on the 16th February. I have already pointed out how that does coincide, except for those small matters, with what Sir William Willcox accepted and Dr. Spilsbury accepted practically. When you are considering the evidence for the defence you will give as much, nay, perhaps, more attention to it than you have already shown to be giving to the case for the prosecution. One

last thing. I call this evidence before you, and I shall have an opportunity of saying something to you at the last stage of this trial. Do not forget that when Major Armstrong enters this witness-box he enters it giving evidence upon a matter which means life and death. Do not forget that he is going to be cross-examined, fairly and properly cross-examined, but going to be cross-examined by the leader of that most honourable profession of which I am a humble member. He is going to be cross-examined fairly and properly, we all know, by the Attorney-General, but by an experienced counsel; and I know you will give the prisoner what you would desire for yourselves, or for anybody dear to you, you will give every consideration to the way in which he gives his evidence. Remember, he is not an expert witness; remember the conditions under which he gives his evidence. When you have heard that evidence, and when you have heard the evidence which will be given by the other witnesses whom I am going to call before you, take the whole of it into your consideration; do not take little bits, but take the whole story as I have tried to take it. I have tried to take the whole story through for the prosecution; and when you have taken it, you will be faced with this, that there is no evidence of administration of arsenic by anybody in this case. You understand, I mean by that no particular person—of course, either she took it herself or had it administered—but there is no evidence of the administration at all; and in my submission, the issue being with you and remaining until the end with you, there is certainly no evidence that Major Armstrong gave his wife poison; but looked at fairly, as you will look at it, carefully, as you will look at it, the evidence points far more, I do not say conclusively, and, as you will appreciate, I have already pointed out, thank God, it is not for the prisoner to prove conclusively that somebody else did it; but it points strongly, so strongly that if you were dealing with the most simple matters of your every-day life, you would hesitate and say, "Well, I am not satisfied of this." But when you are determining, as you have to determine this matter, you will say the prosecution have not proved the guilt of Major Armstrong; nay, further, that, "in our view, upon the whole of the facts that have been proved before us, both for the prosecution and the defence, we are satisfied that Major Armstrong is not guilty of murder."

Mr. Justice Darling—Gentlemen, I will ask you not to discuss this case amongst yourselves from this point on. We have heard a perfectly new case opened. Do not discuss among yourselves what has been said or what may be said as bearing one way or the other, but reserve your consideration until you have heard all the evidence and comments in the case.

Adjourned for a short time.

The evidence for the defence was then called.

Evidence for the Defence.

The prisoner, HERBERT ROWSE ARMSTRONG, examined by Mr. BOSANQUET—I am a solicitor practising at Hay. I am fifty-two years of age. I am an M.A. of Cambridge University, and I hold the appointment of justices' clerk for the division of Hay, Bredwardin, Clyro, and clerk to the Painscastle Commissioner of Taxes. I obtained a commission in 1901, during the Boer War, in the 1st Lancashire Royal Engineers. Ultimately I was in the Devon and Somerset Volunteer Reserve, and was in the Reserve at the outbreak of the war. In November, 1914, I joined up on my own initiative with the Middlesex Division, Royal Engineers, and was taken on as captain. I was promoted major, substantive rank, in 1916, and I served until I was demobilised on the 22nd May, 1919. I was admitted a solicitor in the year 1895, and I served my articles to Messrs. Alsop, Stevens & Crooks, Liverpool. After that I joined Messrs. Hutchings & Co., solicitors, of Teignmouth and Newton Abbot. I was in partnership with Hutchings & Co. in these places from 1901 to 1903, after which date I practised on my own account in Newton Abbot till I came to Hay in 1906. I was first of all managing clerk to Mr. Cheese. I brought a certain amount of capital into the business when I entered into partnership, and the business was carried on under the name of Cheese & Armstrong, and is still carried on under that name. I was married on the 4th June, 1907, at Teignmouth, to my wife, who was then Catherine Mary Friend. I became engaged to my wife in September, 1904, and our engagement lasted for some three years. My wife's father lived at Teignmouth. At the time of her death, in 1921, my wife was forty-eight years of age. We came to live at Mayfield in December, 1912. There are three children of the marriage, two girls and a boy. There was an antenuptial settlement at the time of our marriage, which consisted of the furniture and a life policy of £1000 on my own life. Mr. Chevalier was trustee of the settlement. There was a covenant in the settlement to the effect that I would purchase to the amount of £200, and include that in the settlement. I did that. The relations between my wife and myself up to the time of her death were perfect. My wife was never a robust woman. When we were engaged, in 1903, she had a very severe attack of rheumatism. I remember that from the fact that she had great difficulty in putting on the ring I gave her on that occasion, and that attack lasted for (speaking from memory) three months. After that she had constantly recurrent attacks of rheumatism. She also had a very highly developed nervous system.

And did that have a special effect with regard to her health —nervous excitement, I mean?—I do not know. I cannot speak

medically, but the tendency was to exaggerate details and worry very much over small matters—matters of household importance. Speaking generally, she was a martyr to indigestion. At intervals I have known her to suffer from attacks of sickness—headaches. She was in the habit of taking dinner pills regularly, and she constantly took various homœopathic medicines, nux vomica, bryonia, and ignatia. She had been in the habit of taking homœopathic medicines before we were engaged. As a matter of fact, she kept a stock of such homœopathic medicines as have been referred to. Prior to the war my wife took only general supervision of the garden, and for a certain time after the war it required a great deal more supervision than I could give. She instructed Mr. Jay, the gardener, who has already given evidence, and regularly paid all his bills, and was aware of what he used to purchase. She also decided as to what vegetables would be laid down for the summer. She did a certain amount of rose spraying herself and very light weeding. She was absolutely aware of all that was going on in the garden. For a short period after I joined up in 1914 my wife remained at Mayfield. During the time I was serving in the forces I spent my leave with my wife and family, with the exception of one leave, when I had to attend to business. That particular leave was taken on her special request. I visited my wife whilst she was in Teignmouth. She was still very nervous and excitable. She complained of the recurrence of rheumatism. As regards the letter that has been referred to, written to Mr. Chevalier, there was no foundation in fact for my wife's worrying. At that time in 1918 my bank account was overdrawn. I should think probably most people's bank accounts at that period were not in the best condition, and this particular account at Hay was overdrawn, but not to any great extent. The trouble referred to in that letter was afterwards put right. That was the mortgage of £1900. The manager of Barclay's Bank asked for additional security as I was going overseas, and certain shares in the Brynmore estate were deposited with him. That is the meaning of the reference to those shares. An ordinary security in consols, £300 or £400, was asked, and nothing further.

When I was demobilised in May, 1919, I returned to Mayfield. My wife at that time was suffering from what was diagnosed by Dr. Hincks as neuritis. She was unable to play the piano. I found her in that condition when I returned. I remember on one occasion in October of that year when Mr. Chevalier came to us she was able to play the piano for the first time since my return. It was after I came back that my wife went to visit her sister at Bath. I cannot fix the exact month when I became aware of the will that my wife made in January, 1917, but it was some time in the summer of 1920. I learned that, during general conversation on our own matters, she said

that she had made a previous will while I was on service, and now she thought the time had come to alter it as I had returned safely. Since the making of the first will she had become entitled to further property owing to the death of her mother. I remember Miss Pearce going away for her holiday in 1920; she went somewhere about August. It was prior to that that my wife referred to the will. It was before July that she spoke about it, but I cannot fix the actual date. In July my wife went away from home to stay with a friend at Hoddesdon, a Mrs. Wise. As far as I recollect, it was after her visit to Mrs. Wise that she mentioned the will. My wife made a second will on the 8th July. After some general conversation with reference to the previous will, my wife told me of the rather complicated condition she had made. She wished to have a much shorter and simpler one, and at her request, with her knowledge, I drew up a very short document, the document which has been produced. My wife signed that document. Miss Pearce and the servant, Lily Candy, who was afterwards Lily Evans, were present when she signed it. As far as I remember, it took place in the evening. My wife, Miss Pearce, and myself were in the drawing-room. I believe Miss Pearce called Lily Candy, but I am not quite certain. I have a distinct recollection of my wife saying Lily would do for the other witness. After the will was executed it was placed with my wife's securities in the small safe which is kept in the house. There was not the least secrecy in my wife having made another will.

During the time my wife was away at Hoddesdon in 1920 my wife's niece was staying with us. She was asked to stay with the idea that she might ultimately be a companion to my wife. Unfortunately she developed mental trouble while staying with us, and was taken to an asylum. I kept my wife fully advised of this during the course of the trouble by letter. It was a matter that troubled my wife very much; she was a favourite niece. During that time I received a letter from the lady who gave evidence to the effect that she would be staying with some friends in the neighbourhood of London, and inquiring whether I would be likely to be in London about that time. I had an appointment with counsel at a conference, and I met her. We dined at the Oddenino Restaurant, and then I took her to the train.

The first occasion on which I became aware that there was anything amiss with my wife was on Monday, 9th August, 1920. I recollect that date because it was the day of one of my benches, and usually no benches are held on a Bank Holiday. The benches are held on the first and third Mondays in the month. The 2nd August being a Bank Holiday, the bench was held on the 9th. On that day I left my wife apparently in perfectly normal health when I went to the office in the morning. I was rather late for lunch, as the bench was rather a lengthy one. When I came back to lunch she surprised me by saying before the children that she expected I had been arrested—that she had been doing something

which would cause my arrest, and that she had told the children they need never expect to see me any more. That was the first time I had either seen or heard of any actual delusion on the part of my wife. I turned the conversation during lunch time, and immediately after lunch I took her into the drawing-room and asked her what all the trouble was about. I also spoke to the rector, Mr. Buchanan, and to other friends in the neighbourhood. On Sunday, 15th, I saw Dr. Hincks. The delusions had not diminished. I am not very clear what happened just before, but I remember on Sunday, 15th, seeing Dr. Hincks and explaining what had occurred, and asking him for a sleeping draught. She had got up at night and wanted to go away, and I had great difficulty in getting her back to bed. One of the delusions my wife suffered from at that time was that she had been defrauding tradespeople, and she also was under the delusion that she had been underpaying the servants, especially Jay, and had not been looking after the children properly while I was away on service. Those were the three principal forms of her delusions. At that time my wife was approaching the age of forty-eight. I discussed the question with Dr. Hincks. It was after I had discussed it with Dr. Hincks that I telegraphed to Mr. Chevalier. It was a Wednesday. He came to Hay on Thursday, 19th August. He saw my wife on that day and on the following day. On the Friday morning after breakfast he made the suggestion to me that it was not safe to leave razors anywhere where my wife could get them, and as a result of that I removed my razors. I also removed my service revolver. On Tuesday, 17th, Dr. Hincks suggested that it might be safer for my wife to go away to some home or institution. At first I was very much averse to her going away. I then sent word to Miss Friend, her sister, on the 21st. I met her at Hereford. Prior to that Dr. Hincks had suggested her removal to Barnwood. On Sunday, 22nd August, my wife remained in bed, and her breakfast was taken up to her by the niece who was staying with us. I had nothing whatever to do with it. She got up in the morning between ten and eleven, I think. I went to see Dr. Hincks immediately after breakfast. I cannot exactly fix the hour, but I think I was with Dr. Hincks about eleven o'clock, and while I was at the surgery we arranged by telephone for Dr. Jayne to come over from Talgarth. I did not see my wife again that day until she came into the room on Dr. Jayne's arrival, which would be about noon. My wife had an egg for breakfast that morning; it was the stock dish on Sundays. At lunch that day there were present my wife, Miss Friend, Mr. Chevalier, and the niece; we all lunched together. Dr. Hincks and my wife and her sister and I went together to Barnwood. I did not see my wife vomit before she went. There is not the slightest truth in the suggestion that I had administered arsenic to my wife prior to her removal to

Barnwood, or on any occasion. I went to visit my wife at Barnwood on about half a dozen occasions. On one occasion Dr. Townsend suggested that Dr. Soutar should examine my wife, and I agreed. The last occasion on which I went to Barnwood to see my wife was early in January, but I cannot fix the date. It was after Christmas. At that time my wife was perfectly aware of the nature of the institution she was in. She was longing to get away. The correspondence which has been put in took place between me and Dr. Townsend, and Dr. Hincks and Dr. Townsend. The first suggestion made by Dr. Townsend was that my wife should return on leave. I did not agree to that. The reason I did not agree was because I was under the impression that it would necessitate an examination by the asylum doctors at constant intervals, and it seemed to me it would be rather rubbing it in to my wife the surroundings which she had just left. When my wife came back from the asylum she complained bitterly to me that she had lost use of both hands and feet while she was in the asylum. On the 22nd January, when she was actually back in the house, she was able to walk, but I was told there was a lack of co-ordination. She could walk sometimes better when she did not think about it, and she could handle a heavy teapot.

As between her condition when she went in and when she came out, what was her condition when she came out?—When she went into the asylum she had the use of her hands and feet. When she came out she had not. As far as I could tell, when she left the asylum the original delusions had ceased to a great extent. I am speaking of her conversation with myself. There were certain delusions which I was able to clear away by explanation. One was that before she left she thought that Jay was knocking at the windows and that people were trying to get in. I reminded her that in an adjoining meadow to my house a reaping machine had been working at that period, and she said at once, "How very stupid of me; I never thought of that. That explains what that noise was." She did not suffer from anything of that kind after she came back in my presence. I did not notice anything particular regarding her walking. She did not complain to me of her high-step gait. I had been in touch with Dr. Hincks prior to my wife's return, and I asked him to keep an eye on her after she returned. I remember Nurse Kinsey coming to help my wife. She came at Dr. Hincks's suggestion. My wife was unable to dress herself properly, and it was my desire that a nurse should be present in view of the fact that she had only just come out of a mental home. Nurse Kinsey arrived the day after my wife came back and remained until the 27th January. She did not tell me anything regarding my wife's condition. When I heard that Nurse Kinsey was unable to stay I discussed the question of another nurse coming with Dr. Hincks. Nurse Allen came on the 27th. Up until the time Nurse Allen came I occupied

the same room as my wife, but we had always separate beds. After that I moved across the passage to a room opposite. My wife always kept a stock of homœopathic medicines in a medicine cupboard on her mantelpiece in the bedroom. The key of that cupboard was turned, but it always remained in the lock. Until Sunday, 13th, my wife's condition was very much the same. During that period she took part in slight social duties. If people called she would entertain them. I cannot say whether she was in the garden on any occasion prior to the 13th as I was away at the office, but she was quite capable of going into the garden. I remember on Monday, 14th, on my return from the office, she told me she had been sitting out in the garden, that she had had a visitor, a Mrs. Price. She had been sick on Sunday, the 13th. I remember telephoning to Dr. Hincks on Wednesday, 16th, as the result of a communication by Nurse Allen to me. My wife took to her bed on the Wednesday evening. Either Miss Pearce or Nurse Allen prepared my wife's food, as far as my knowledge goes. Up until the midday dinner on the Wednesday my wife always took her meals with myself and the rest of the family. My wife had been in the habit of giving lessons to my little boy, and I recollect that she gave him his lessons on the Wednesday morning before the sale I have referred to, the 16th. I remember that because at the meal a reference was made to an exercise book that the boy had lost, and his mother was a little bit annoyed at the fact. From the 16th onwards my wife got steadily worse. Dr. Hincks called every day. I went to my office during the day time while my wife was ill. The only alteration I made was that I left a little later in the morning and used to come back a little earlier at night. I used to go and sit with my wife. I always went in to see her before I left in the morning. I came back for luncheon in the middle of the day, except on Thursdays, which was market day. I returned at five o'clock at night instead of six.

By Mr. Justice Darling—I always looked into my wife's room after I had lunch.

Examination continued—On Sunday, 20th, in consequence of a conversation I had with Dr. Hincks, I arranged with Nurse Lloyd to come and help during the night.

By Mr. Justice Darling—I did not at that time know that my wife would not recover.

When were you first told that?—On the Monday morning, 21st, was the first time that Dr. Hincks mentioned it.

Examination continued—You may recollect that Dr. Hincks in his evidence said that he told you on the 18th?—Yes, that was not correct. Nurse Lloyd came on the 18th between nine and ten at night, I believe. Nurse Allen had gone to bed when she arrived. Between the time when Nurse Allen left and Nurse Lloyd came Miss Pearce was in charge of the sickroom. I have no recollection of being in the room during that time. I had

nothing whatever to do with the food that was prepared for my wife that day. I remember going into the room while Nurse Lloyd was there just before I went to bed to inquire whether everything was in order. I should think that would be about ten o'clock. I remember she had taken off her outside cloak and was standing close to the bed at the time. On the morning of the 21st, when Dr. Hincks told me my wife could not recover, he also told me that I should at once get some brandy and champagne. I got the brandy from the King's Head, and I telephoned to a friend—a neighbour, a Mr. Booth, and he very kindly sent some champagne direct to Mayfield. That being a Monday, there was a sitting of the Court that day at Hay, and I was acting as clerk. I got home shortly after twelve. I took the brandy home with me. The champagne had arrived when I got home. I opened a small bottle of champagne in the sickroom. Nurse Allen and Miss Pearce were present on that occasion. I saw Nurse Allen give my wife some champagne. I think it was between five and six when I got home that night. Nurse Allen was in the habit of coming downstairs for her meals. I was sometimes in the room when Nurse Allen was away taking her meals. On these occasions it is possible that I might have been alone in the room with my wife. I remained in my wife's room during the earlier part of that evening. I remember asking if the servant should come up to relieve Nurse Allen, and my wife said, "No, I do not want nurse to go away." But she was speaking in a very strong tone of voice for her. I commented on it afterwards. She was very drowsy at that time. I went to bed at the usual time that night. At eight o'clock in the morning I received a message from Nurse Allen, and as the result I went into my wife's room. I found my wife unconscious. She was conscious only at remote intervals. Dr. Hincks arrived about nine or 9.30. He said he did not think she would live out the day. He told me there was nothing more that could be done. He then took me down to my office in his car. Shortly after ten o'clock the nurse telephoned me to tell me that my wife was dead. I at once went to Dr. Hincks's surgery, and heard he was away at an urgent case. I then went straight home. I was in my study the whole time before lunch. The first time I saw Nurse Allen was at lunch time. I telegraphed to Miss Friend on my way up to the house. Miss Friend arrived at 1.30. I then discussed the arrangements for the funeral with Dr. Hincks. The funeral took place on the 25th February. Mr. Chevalier was present, as well as Miss Friend. I had a conversation with Mr. Chevalier with regard to my wife's will. I remember that I told him she had made a fresh will. My wife used to pay certain dividends to Miss Farley and Mrs. Short, her two aunts. They were on the Rio Janeiro Railway Company. I have continued to pay these dividends since my wife's death. I proved my wife's will through the office. It was done in the ordinary way. Nothing was realised, but a small mortgage was paid

off, and the proceeds of that used for probate duty and the necessary expenses of proving the will. My wife kept her banking account at Lloyds Bank, Teignmouth. I had mentioned my wife's new will to Miss Friend before I spoke to Mr. Chevalier. That, I think, was in August, 1920, but I do not remember the date. I continued the banking account at Teignmouth. The dividends from the stock continued to be paid into this separate account at Teignmouth until the date of my arrest. In March I went away for a change of air. I did that on Dr. Hincks's advice.

I want to ask about the lady who has given evidence. Will you tell the jury your relations with her—what took place?—Perfectly friendly relations. I used to visit at her house where her mother lived, and they were extremely hospitable and kind to me during the time I was on service and quartered in their neighbourhood. I showed her a photograph of my wife and my home and children.

Attention has been called to an entry in your diary marked "M. G." just after you came back from abroad. Will you explain to the jury what you meant by this mark "M. G."?—At that period I knew that my housekeeper, Miss Pearce, would be away in June. I was very anxious to get somebody to keep house during that time, and on my return from abroad I had a request to stay with the lady in question to advise her on certain professional matters. She was living with her mother at that time. I made that note to remind me to ask her if she knew of anybody who could possibly come as my guest and look after me and my house while my housekeeper was away. My youngest child was being educated at home at that time. We discussed the question. She was the only friend I could discuss a matter of that sort with, as I have no relatives. (Shown exhibit No. 47)—The last paragraph in that letter, dated 8th May, 1921, which reads, "I want some one to come and keep house for me during June as my guest while Miss Pearce goes to Teignmouth with Margaret. Do you know any one, as I am at my wit's end," refers to the same matter.

I have known Mr. Martin since my return from service in 1919. He was then in Hay. I knew Mr. Griffiths very well. He was an old gentleman who had an extensive practice in Hay, and held a number of appointments, and he was a great friend of Lily Friend. When Mr. Martin first came my wife invited him to tea. I remember him coming to tea. I recollect that he was dressed in white flannels and wore a rather loose sports coat. I did not invite him again after that until the end of 1921, as my wife was rather particular. We continued on ordinary terms as business friends. When Mr. Martin was married I sent him a wedding present. I endeavoured to act in a friendly manner towards Mr. Martin. The invitations that have been referred to were just invitations to show friendly kindness to Mr. Martin.

I heard Mr. Martin say that he suggested that I should sign his papers in order that he might become a commissioner, and he also suggested it was only for my convenience. That is not true, because I could have got another commissioner. There was another commissioner living at Bredwardin, a couple of miles away. It would, of course, be more convenient to have a man opposite my own office. I have heard the account of the negotiations with regard to the Velinewydd purchase. I had no personal feeling against Mr. Martin with regard to that. It has been my misfortune as a solicitor to have to write angry letters to other solicitors with regard to business matters, but it has in no way altered our friendly relations in private life. I invited Mr. Martin to tea on the 24th, and he ultimately came on the 26th. At that time we were both exceedingly busy, and I was understaffed. MacGeorge was doing the actual garden work at the time. I had a conversation with MacGeorge in the morning. Mr. Martin offered me a lift in his car that day, but I arrived home earlier. What Mr. Martin has said is perfectly correct. When I arrived I simply went right through the house—in at the front door, put my trench coat on when I changed, and out through the side door. I had no opportunity whatever of tampering with any food in the drawing-room before Mr. Martin's arrival. There was a plate on each tier of the three-tiered cakestand. On the bottom there was bread and butter, on the middle buttered currant bun, and on the top row some scones. The scones were plain, not buttered. I poured out tea, and handed Mr. Martin a cup. After I had given him a cup of tea I passed the cake stand to him, and he helped himself. I heard Mr. Martin's evidence with regard to my taking up a scone in my fingers and handing it to him saying, "Excuse fingers," or something of that kind. That is incorrect. I remember leaning across to help myself to a scone, and saying, "Excuse me," but nothing further. It was necessary for me to stretch in front of him when doing that. This was the first time Mr. Martin had been to tea with me since my wife's death. I remember passing a plate of currant bread and butter to Mr. Martin and placing it by his side. That is what he said he finished off. Afterwards he smoked a cigarette. I remember offering him some pipe tobacco, and my recollection is that he said he was off smoking a pipe. I had no cigarettes, and I apologised for not being able to offer him one. At that time I usually had my tea at home, except when I was working late, and I would order tea in from the café next door when I was at the office working late. Later on I arranged to have tea always at the office. One reason was that I was extra busy, and another was that I had great difficulty with an oil stove which I never had before for boiling water. On Thursday, 27th October, I went to my office at the usual time. I went across to Mr. Martin's office in the morning and I saw Preen, the clerk, who was called as a witness. I attended a sale that afternoon for Mr. Martin. I saw Dr.

Hincks on the 27th at his surgery. I called specially to see him, to inquire how Mr. Martin was. I knew Dr. Hincks personally, and apologised for asking him with regard to a patient, but I told him that Mr. Martin and I had some very important business on Tuesday next, and I should be glad to know if he was well enough, as the Hope completion was on then. I was acting for Captain Hope on about forty lots. The date of the completion was the 2nd November.

Do you remember Mr. Martin saying you met him shortly after, and the extraordinary remarks he referred to, that he might think it curious or cruel, but he would have another attack?—I never made the remarks.

What did you say?—I at some date remember meeting him on a Saturday after his illness, and I said that if he did not take more exercise he would have another attack. I had spoken to him before on the same matter. He was a man who was not in the habit of taking exercise. He had a motor car. It is a fact that on several occasions after the 26th October I asked Mr. Martin to come to tea. He was not the only person I asked to come to tea. I had invited Mr. and Mrs. Martin to come to dinner with me in December. I have known Mr. Trevor Griffiths for a number of years. I was going to ask Mr. Talbot, of Brecon, to come and meet Mr. and Mrs. Martin. I rang him up, but he told me he could not come. I was trying to get four for bridge. I did not succeed in getting the four altogether. At the time of my arrest I had invited Mr. and Mrs. Martin to come to dinner and make a party of four for bridge. In 1918 there was another chemist besides Mr. Davies in Hay—a Mr. Stocker. I never made any purchases from him; I dealt entirely with Mr. Davies. On the 7th June, 1919, I purchased half a pound of arsenic from Mr. Davies. I used to keep the arsenic and caustic soda in the cupboard in the study on the left-hand side of the fireplace. My wife had access to that cupboard. I kept general small gardening materials in that cupboard also—a rose spray, and things for writing on rose labels, and a particular kind of ink. My wife was cognisant of all the things that were kept in the cupboard. With the exception of what appears now—about 2 ounces—all the arsenic I purchased in 1919 was used in the summer of 1919. I remember that on that occasion I boiled it in an old petrol tin, a red tin which had been left by the tenant when I was on service. I do not know what became of that tin. I used to use petrol for a gas installation. Having boiled the solution in the can, it was then poured into a bottle—one of the bottles produced—a cognac bottle. I wrote the word "Poison" on that bottle. In the summer Jay did all that was done in the way of killing weeds. At the end of 1920 there is an entry in my diary with regard to weed-killer. The object of that entry was to remind me to make weed-killer earlier in 1921. The reference there is to 2 gallons. What I had made before had been 3 gallons, and I had to slightly

alter the proportions in using it. I had a 2-gallon can; the 3-gallon one had been damaged or could not be used. Shortly after this I went to Mr. Davies and made the purchase of 11th January. Mr. Davies's shop is only a few minutes from my office.

Mr. Justice Darling—Was it white arsenic?

Mr. Bosanquet—Yes, my lord, it was white.

Examination continued—It was Mr. Hird, the assistant, who served me on that occasion. I did not see whether the arsenic was coloured or not before he wrapped it up. It was wrapped up in white paper, and there was a label on the outside. When I got home I opened the caustic soda tin which was in the cupboard, and then I realised that I had some of the 1919 purchase unused. I had used all of it except the 2 ounces that have been referred to. I had put that into the caustic soda tin and forgotten all about it. I put the new purchase on the top of the tin on the shelf in the cupboard. Shortly after that my wife came home. At that time Saturday afternoon would be the only time I could do anything in the garden. After my wife's death I went abroad, and I came back on the 28th April. Some little time after I came back I went to the cupboard—it would be some time in May, because it was after I had taken my boy to school, and that was on the 13th May. The summer of 1921 was an exceedingly dry summer, and for that reason it would not be a favourable time for putting weed-killer on the gravel paths. When I went to the cupboard in May, 1921, I saw the packet that I had bought in January. There was no string round it, and it appeared to me as if it had been opened. I opened the packet, and for the first time I realised that it was white arsenic. I did not weigh it. The packet was in such a position in the cupboard that anybody going to the cupboard would see it readily.

Did your wife know you were using arsenic for the garden?—She did.

Mr. Justice Darling—What do you mean by "were using"?

Mr. Bosanquet—In the habit, I mean, my lord, without giving a particular date.

The Witness—She was present when I made it. When I mixed my weed-killer in 1919 my wife was present. When I found the arsenic in the cupboard in May, 1921, there were two lots—the coloured one in the caustic soda tin and the packet on the top of the tin. I put the coloured lot at the bottom of the cupboard, and placed the packet containing the white arsenic in a small drawer at the bottom of the centre cupboard of the bureau, and I locked the cupboard. The next time I went to that drawer was, I think, some date in the month of June. At that time I was staying with my neighbour, Mr. Moor, on the opposite side of the road, and I used to come of an evening to the garden at Mayfield and do little odd jobs. The arsenic was wrapped in two white papers, just as I got them from Mr. Davies's shop. I was not satisfied with the results of the 1919 arsenic, and I decided to make some

experiments as to the proportion of caustic soda and general solubility, which I was able to do with comparative safety. There were no children in the house. I boiled the water on a gas ring; there was no kitchen fire, for the house was shut up. I divided this packet of arsenic into two parts, roughly; I did not weigh it. I just divided it off with my penknife. One lot I placed on the outside piece of paper, and the other lot remained in the inside. Having done that, I wrapped up the lot in the inner paper and put it into a half-sheet of blue draft paper which I had taken from the bureau. I then put it back in the same little drawer I had taken it from. (Shown exhibit No. 60)—That is the blue draft paper I referred to. I never took that packet out of the drawer again.

[Mr. Justice Darling inquired where the bureau was, and, on learning that it had been brought to the precincts of the Court, he directed that the prisoner should put the packet where he said he left it, that the jury should afterwards examine the bureau, and that later Mr. Matthews should put the package where he said he found it. Nobody who was a witness must be in the room with the bureau.

During the tea interval the bureau was brought into a room in the courthouse, and the judge's instructions were carried out, Armstrong leaving the Court under surveillance to place the package in the bureau, and then returning to the witness-box, when Mr. Matthews was called out. These proceedings were watched by all the counsel engaged, as well as the judge and jury.]

Examination continued—With regard to the bureau, you have now placed the packet in the position in which it was when you placed it there, as you tell us?—I have.

Do you happen to recollect which way up you placed the packet?—No, I have no recollection. I do not remember whether I placed it flaps up or flaps down. I used to keep my keys in the bureau in a small drawer to the left of the cupboard. It was on the top row of the drawers to the left of the cupboard and immediately next to the cupboard. There were also some old luggage labels with my name painted on and some foreign postage stamps. As regards the other half of the packet of arsenic, I made up several small packets in pieces of paper. I cannot say exactly how many there would be—over a score; I cannot give the actual number. As regards the remainder of the second half that had not been made into small packets, I used it up in making tests in the nursery with the object of ascertaining if possible the best form of solubility. The packets I made up from the second half were about the size of exhibit No. 32. When making my experiment of the remainder that was left over, I took various portions of that and mixed it with caustic soda to see whether the proportion of my recipe was the right amount. The object of making these experiments was, when I made the mixture in 1919 it was done in a petrol can, and I was unable to see whether it

dissolved or not. By doing it in the glass test tubes I was able to see whether equal proportions of caustic soda and arsenic made a proper solution. The glass tubes are available if wanted. I had among my papers a catalogue of the Boundary Chemical Company, in which there is an advertisement of what they call Kilm. I purchased one of these Kilm patent weed eradicators before the war, but when I came back from the war it was not usable. The whole of the body of it is made of cardboard, and it had been kept in a cupboard; the damp had got at it, and it had all gone bad. That instrument gave me the idea that if I injected a form of poison at the root of these big dandelions it would have the same effect as the original instrument. As a matter of fact, the original instrument did inject poison at the root, and it was a success. I put the packets of the arsenic which I have referred to into the pocket of the Norfolk jacket, which has been produced. I made a hole at the base of the biggest dandelion roots I could find with an old file that was lying in the garden, and, having cut the whole of the root, I emptied the contents of a packet into it. It seemed to have a successful effect.

By Mr. Justice Darling—Did it take one packet to kill one dandelion?—One big root 3 or 4 inches round. I did not weigh the quantity of arsenic I put into the root of the dandelion.

Examination continued—The surrounding grass was spared. I believe I used up all the packets I made. As regards the coat in which I kept the packets of arsenic, it was a coat I had had for some time which I used for working in the garden. I had it on the day I was arrested.

By Mr. Justice Darling—Where were you arrested?—At my office in Hay.

Examination continued—It was a Saturday when I was arrested. I have forgotten what the price of a quarter of a pound of arsenic was.

In that jacket there were a number of letters. How did those come to be in the jacket at the same time?—The night before I turned out the contents of the coat that I was then wearing; the next morning, knowing that I would be working in the afternoon in the garden, I put letters which I had in my old coat, together with some letters that had arrived by that morning's post, in the pockets of that particular jacket. I am in the habit of emptying my pockets before I go to bed every night. I was also wearing an old pair of riding breeches and trench boots that morning. It was shortly after ten o'clock in the morning when Inspector Crutchett called at my office. The officers were with me in my office until after four. During the earlier portion of the interview I made the statement which has been read. I did not have any food from breakfast time until I got a cup of tea given to me at the police station at five o'clock.

In that statement you used these words, "In January, 1921, I made a further purchase of a quarter of a pound of arsenic at

Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself. It was not a success, which explains why I have some left at my house. When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on. I remember talking with Mr. Taylor, the bank manager at Hay, respecting my recipe for weed-killer. This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine." Explain how you came to say that to the police?—The first portion that you have read was obviously incorrect.

As regards it being tinted?—Yes, I had mixed it up with the 1919 purchase; I said the 1921 purchase.

With regard to the further statement, "This is the only poison that I have," what do you say?—I was thinking of what was at the bottom of the cupboard. I had absolutely forgotten about what I had put in the bureau. As far as my recollection went at the time, what I told the police was correct. The statement was made under very trying circumstances.

By Mr. Justice Darling—You had quite forgotten the arsenic in the bureau?—I had quite forgotten that.

Examination continued—I saw my solicitor, Mr. Matthews, on the following day, Sunday. I sent for him to come over.

I cannot ask you what was said, but did you on that Sunday make a communication to Mr. Matthews?—I did. When the detectives were in my office they took possession of the contents of my coat, and, as they have said, they placed the letters and other things all together in a brown paper parcel. I was not aware at that time that amongst the things in my pockets there was a small packet containing $3\frac{3}{4}$ grains of arsenic. I obtained leave from Inspector Crutchett to sit at my desk and deal with my business letters. Among the letters which had been taken from my pocket I knew there were two which were purely business. There was also a telegram with an address which had been sent to me that morning on a business matter. I interpreted the consent given to refer to business letters, that I could also look at those letters which had been taken from my pocket, and I did so.

The suggestion—I do not know that it has been put into so many words—is that you sorted those letters with a view to removing this packet of arsenic from them. Is there any truth in that?—No; for the first time in turning over those letters I saw that small packet—I should say for the first time since June.

Do you recollect how that little packet was lying among the letters?—Just part in and part out of the flap of one of the envelopes.

In your statement you say, "At this time I came across a recipe for weed-killer, consisting of caustic soda and arsenic, which was very much cheaper than the liquid weed-killer which my gardener had previously been in the habit of purchasing." Where

was the recipe at that time?—In the garden file which has been produced (referring to exhibit No. 64). I informed Inspector Crutchett of the existence of that recipe, and I told him where it was to be found. That was immediately after the statement had been made.

That closes that incident. I am reminded that there is one thing that I have not dealt with. I ask you as to your relations with the lady who has been called. Did you at some time or other propose marriage to her?—I did.

When was that?—I think it was on the 14th of May, Whitsunday. It was either the 14th or the 15th, I cannot say which day. It was the day after my birthday; that is the 14th.

Was there an actual engagement at any time subsisting between you?—No.

Cross-examined by the Attorney-General—As I have already stated, my wife had a severe attack of rheumatism in 1903, which lasted for three months.

Did the attack of rheumatism last for three months or not?—Yes, the inability.

Inability of what?—Using her hands.

Or her legs?—I do not remember that it was acute in the legs; it was more acute in the hands. The rheumatism was recurrent from and after that time at intervals during our engagement, and also during our married life. There was the same inability to use her hands. It was sometimes the one hand and sometimes the other. That went on right up till 1919. She also was a martyr to indigestion during our married life, and at intervals she had attacks of sickness and headaches. In 1919, when I returned, she was suffering distinctly from neuritis. I cannot remember which hand it was on that occasion, but it was only one hand. Dr. Hincks told her to put the hand that was suffering in a sling. I believe it was the right hand at that time, and I think there was some swelling of the wrist. That trouble fluctuated during the summer, and gradually died away until October, when it was quite better. She was then able to play the piano. She always had indigestion at that time during intervals. Up to the time that my wife went away in 1920 she was very highly strung; she was more highly strung and nervous than she had been in the previous year. Her nervous system seemed to be more irritated, if one might say so. As regards her general physical health, there was no sign of acute neuritis. When I talk of my wife going away I mean when she went to stay with her friend at Hoddesdon in June, 1920. After she had been to Hoddesdon she went to Blockley. That would be about the end of June or July. Her condition was just the average at that time. There had been no recurrence of the neuritis from the previous October; it seemed to be dormant. She had indigestion at intervals, however. Her digestion was never good.

Do you want to draw a distinction between the time when she came home from Hoddesdon or Blockley at the end of June and the date when she went to the asylum, or the few days before she went to the asylum in August?—I should rather draw a difference, if I might, between the time she returned from Hoddesdon and the time she went to Hoddesdon. She seemed to be more nervy. I can only use that word—not nerves in the sense of timid, but nervy in the sense of being full of nerves.

Do you mean when she came back from Hoddesdon she was more nervy?—Yes, the trip did not seem to have done her the good I had hoped it would.

Let me take a few days before she went to the asylum, any one of the few days before she went to the asylum and the time she returned home. What was her condition of health then?—From the time she returned from her holiday till the 9th August she was extremely nervy and excited, then on the 9th the delusions appeared for the first time. I do not remember of her complaining of rheumatism nor of indigestion particularly. While my wife was in the asylum I visited her as often as I was allowed. There is an entry in my diary which says, "31st December, Gloucester, 3.50." That was the time of the train I took when I went to see my wife. I paid one other visit to her before she returned home, but it is not entered in the diary. That visit on the 31st December was the last visit before the correspondence commenced about her return home. That correspondence started on the 11th January. In my opinion she was quite fit to come home. When she did come home she took up the practice of giving lessons to the boy, and she continued doing that for some days, up to the morning of the day she took to her bed finally. That, at least, is my recollection. As compared with August, her mental condition was then very much better.

Going back for a moment, let me put this general question—In August of 1920 would you say that your wife's health was good or bad, or indifferent, or what?—I should say indifferent. You are speaking of on or about the 9th August, 1920?

I will take the 9th August if you like. I am not wishing to tie you down to a particular date. Say the first fortnight in August; would you say indifferent?—Yes. I remember when Mr. Arthur Chevalier came down in August. He then spoke about a possible suicidal tendency, and it was at that time I put my razors and service revolver away. It came as a shock to me to hear that from Mr. Chevalier, as I had never contemplated such a possibility; but from the argument that he put forward as to her then state of health it seemed to me that he was justified. I took a serious view of it then; I was afraid that there was a suicidal tendency. I was therefore glad when the responsibility of looking after her had passed away from me on her entrance into the asylum. I had not had that danger in mind prior to Mr. Chevalier speak-

ing to me. He came to me on the Thursday, and my wife left on the Sunday, the 22nd. Besides putting away the razors and my service revolver, I also warned the servants to keep, I believe it was, knives away from her, and I knew that in my absence in the office Mr. Chevalier would be keeping an eye on her. I know that at that time I had two portions of the 1919 arsenic in the cupboard in the left-hand side of the fireplace in my study, but I did not know it then; I had forgotten it. I do not think that cupboard was locked; I am not sure.

By Mr. Justice Darling—She had access to it, and knew what was in it?—Yes.

Cross-examination continued—Did you discuss this possibility of suicide with the doctor attending her, Dr. Hincks?—I asked him at the time if there was any danger, and he said there were always possibilities at that period of life, the change of life. That was what was in my mind. I was, therefore, anxious about her after Mr. Chevalier spoke to me. I was also anxious about her general state of health. (Shown exhibit No. 55)—That is in my handwriting and it is my signature.

Let me read you what you said and signed on the 23rd August, 1920, about your wife's health—" *Q*. Has she ever suffered from any serious disease, or is she subject to any particular constitutional or bodily ailments?—*A*. No. *Q*. Is the patient violent towards herself or others, and in what way? Or has she broken glass or furniture, torn clothes or bedding, or done mischief of any kind?—*A*. No symptoms of violence, *au contraire*, apathy to surroundings and acute introspection. *Q*. Has she threatened or attempted self-destruction; if so, when, and by what means?—*A*. No. *Q*. Is the patient's bodily health good, bad, or indifferent?—*A*. Generally good, but of a livery tendency." Was that statement made to the hospital true or not?—Yes.

Is it true then as you told me to-day that her health was indifferent?—That question—it covers that.

Mr. Justice Darling—What? The answer that was given there would include your answer to-day?

Cross-examination continued—I put the words specifically to you at the time when she left in August was her health good, bad, or indifferent, and you said indifferent?—Yes.

I put the question to you, as answered by yourself, and signed by yourself on the 23rd August, " was the patient's bodily health good, bad, or indifferent," and you answered " generally good, but of a livery tendency "?—That would imply indifference; " generally good."

Perhaps I will spare you to make a comment at the present moment. You observe the word is quite clear there, " indifferent," and you chose out of the three words offered to you " good," " bad," or " indifferent," " generally good," and you are asked there " has she threatened or attempted self-destruction; if so,

when, and by what means," and you answered "No." Did you think it fair to the asylum not to make any disclosure of your anxiety as to this suicidal tendency?—I answered that question correctly; she had never made any attempt.

Let me put the other questions and answers. "Was there any peculiarity in connection with the patient previous to or at birth?—*A*. No. *Q*. Was there any peculiarity observable in the patient during childhood and youth, or was she generally strong and healthy in mind and body?—*A*. Yes. *Q*. What is the patient's natural temper and disposition and favourite pursuit and tendency? Has she led an active or sedentary life?—*A*. Cheerful but anxious. Household duties and literary taste. *Q*. Has she always been temperate and industrious?—*A*. Yes, a total abstainer. *Q*. Has she at any time undergone any serious disappointment or reverse, pecuniary or otherwise?—*A*. General strain in family care and household management during and since the war. *Q*. Has any blow or other injury ever been received on the back or head?—*A*. No. *Q*. Has any relation or family connection been known to be insane, or of weak mind, or eccentric, and, if so, which of them?—*A*. No. *Q*. Has any near relation been habitually intemperate?—*A*. No. *Q*. Is there any tendency to consumption in the patient's family?—*A*. No. *Q*. How many previous attacks of insanity has the patient had, what period elapsed between each, how long did they last, and where was she treated?—*A*. None. *Q*. Before the patient manifested the symptoms of insanity did she suffer any loss of sleep or appetite or exhibit any change in temper or disposition?—*A*. Helplessness for ten days prior to reception, and nervous excitement with slight irritability for some months prior. *Q*. What circumstances are supposed to have caused the mental disorder?—*A*. Change of period of life. *Q*. In what manner has insanity shown itself?—*A*. Delusions that she is being followed about; that she has neglected her family and husband, and is liable to arrest. *Q*. Has she at any period of the disorder been of dirty habits?—*A*. No. *Q*. Has she refused food at any time?—*A*. The day prior to and the day of reception, 21st and 22nd August. *Q*. Has she ever had fits of any kind or been paralysed?—*A*. No. *Q*. Has she been under medical treatment, and under whose care?—*A*. Dr. T. E. Hincks, Hay. *Q*. Has she ever been subjected to personal restraint?—*A*. No. *Q*. Up to what time has she continued her ordinary employment?—*A*. The day before reception."

That is your signature. Now, let me ask a little more about August. Did Dr. Hincks attend your wife on the 18th August?—He had been there either on Monday or Tuesday, I am not sure which. Sunday was the 15th. To the best of my recollection he came both on the Monday and Tuesday, but I am not absolutely certain. I do not know whether at that time he took a sample and tested my wife's urine. My household consisted at that time of

my wife, a niece, Miss Agnes Sayle, who came the first week in August when Miss Pearce went away on holiday, the servant, Lily Candy, and myself. These were all up to Mr. Chevalier's arrival. The children, of course, were also there. After consultation with Dr. Hincks, at his suggestion it was arranged that another doctor should be called in, and he jointly with Dr. Hincks certified my wife. That doctor came from Talgarth. I do not think he had ever been in my house before, although I knew him personally through another source. He was only called in professionally. My wife had not vomited on the morning of the 22nd to my knowledge, but I was told so. I am not sure as to the precise hour when Dr. Hincks called that day, but it was about midday. My recollection is that after my wife had been certified Dr. Hincks and Dr. Jayne left my house. It was originally intended that he should come back about two o'clock, but I believe there was some little difficulty in getting a car to convey my wife to the asylum. It did not appear to me that my wife's condition altered for the worse between Dr. Hincks's first visit and second visit to my house that day. I have heard Dr. Hincks in evidence say that he had some anxiety as to whether my wife could be taken to the asylum, but I do not know what was at the back of his mind. The car in which we went to the asylum was an open car, and my wife sat between myself and Miss Friend in the back seat. Dr. Hincks sat in front next the chauffeur. Miss Friend took a vessel in the car in case my wife should vomit. I did not know whether it was necessary to take such a vessel in the car.

By Mr. Justice Darling—My wife did vomit on one occasion on the way.

Cross-examination continued—She knew she was going to a mental home. I was told by Dr. Hincks to let her know that; I told her she was going to a home where she would have great attention, and also where she would have rest for a short time. I did not use the words "You are going to a mental home." I never mentioned the word asylum or anything to do with that; I only told her she was going to some place where she would have attention and a rest cure.

Can you then suggest any sort of mental distress which would have brought on vomiting in the car?—I do not know at all. I have no means of giving an opinion on that. My wife was able to walk from the car when we arrived at the Asylum. I think she took her sister's arm, but I cannot say more than that. She did not take mine. Speaking from memory, I think it was within the first 4 or 5 miles that my wife vomited on that journey. The total distance we had to travel was some 50 miles. I do not remember that my wife was in an exhausted condition when we arrived at the asylum. I was told afterwards that she was put to

bed at once. I was told that she had been put to bed and was in comfort, but I did not know of my own knowledge.

Did you ask whether she had a bedroom, or a bedroom and sitting-room, or what sort of room?—I was told I was not allowed that.

Dr. Townsend told us that she was in an exhausted condition, she was taken to bed, her pulse was rapid, 120 to the minute, her temperature was 100, her tongue was coated?—I heard that evidence.

Do you agree or do you not agree that she was in an exhausted condition?—She did not appear so when she left the car and went to the lift; I cannot say more than that.

Did you ask anybody, either Dr. Townsend or Dr. Hincks, whether they thought she was seriously ill?—I did not ask if she was seriously ill, because I did not think she was seriously ill.

From her appearance after this 50-mile drive did you think there was any necessity to put any question at all about your wife's condition?—I asked generally if she was comfortable, I believe that is the word I used. I cannot give the specific word, but it was a general inquiry that she was all right, and I was told I could not see her. I do not remember whether I put the question as to whether or not she had been put to bed.

The Court adjourned.

Eighth Day—Tuesday, 11th April, 1922.

The Prisoner, HERBERT ROWSE ARMSTRONG, recalled, further cross-examined by the ATTORNEY-GENERAL—I knew in the summer of 1920 that my wife had made a will some time previously. After general conversation she wished to make another will. I knew generally what was in the old will, but I never saw it until this trial, when I saw it across the Court. I know that in that will there was an annuity left to Miss Pearce. I know that in the new will no reference appears to Miss Pearce. My wife left it entirely to my discretion, and after her death I told Miss Pearce that as a matter of carrying out her desire I would give her that annuity. It was £12 a year. It was within a few days of my wife's death that I told Miss Pearce that. I never saw what has been called the epitome of the will. My wife had a brother in New Zealand whose name was Arthur. I have at intervals corresponded with him. My wife used to write to him regularly, and on her death I took up the correspondence more or less at intervals. I wrote to him some time in November about shares or scrip and certificates along with some other family matters. I do not remember saying in a letter written by me to her brother on the 28th November, "After her death I found a draft of the will No. 1, which had included an annuity of £20 to Miss Pearce." I also do not remember writing that I had told Miss Pearce, "I consider myself bound morally to continue to pay this." I may have said in a letter to her brother that I was going to pay Miss Pearce, but I did not say that I had found a draft of the will No. 1 after her death. My wife told me about the annuity to Miss Pearce.

By Mr. JUSTICE DARLING—The second will was drawn up in my handwriting. I drew that up without having seen the first will. I believe the first will was in my sister-in-law's custody. I cannot say that I knew at the time the second will was made up that the first will was with Miss Friend, but I asked my wife afterwards where the will was, and she told me.

Would not it have been a prudent thing not to leave a will in the hands of Miss Friend which Miss Friend apparently believed to be an operative will?—Certainly, in the events that have occurred, it would have been prudent, I admit.

Supposing you were acting for a client in making a second will, would not you ask for the other; would you leave it in the hands of somebody else, who might produce it at any moment without your seeing it?—I think one does things rather more irregularly for one's own family. I do not think Miss Friend knew anything about the execution of the second will.

Cross-examination continued—I admit that, had I died immediately after my wife's death, there was nothing in the will to protect Miss Pearce's interests. I have not altered my will yet making provision for Miss Pearce. When my wife wrote on the 11th January, 1921, "My dearest Bess, I forgot to ask where is my original will. I think all executors ought to know. Will you tell Arthur?" She was referring to Mr. Chevalier. I do not know what the sentence "Is it with yours? H. has a copy, but the original was locked away by you while he was on service." From the evidence it would appear that that is true. As regards the statement that I had a copy, that is not true. I had a copy of Mrs. Short's will and Miss Farley's will. My wife's will was never referred to at any time while I talked with her in the asylum. The will of 8th July, 1920, is in my handwriting, and it commences with a revocation of any previous will. I heard the document which was produced by Miss Friend called the deed of gift read in Court. When my wife wrote, "Take deed of gift to a lawyer, ask Miss H. She can mention nursing H. Sign it and A. K. can ask it to be stamped at once." I take it the Miss H. referred to was Miss Hutchins and the A. K. referred to Aunt Kate. I can throw no light upon that document.

It looks, does it not, as if your wife was taking in hand in January the matter of her testamentary disposition?—I do not know. The will of 8th July, 1920, was signed in the evening, as far as my recollection goes. Lily Candy came to us some time between the 20th March and the 20th April. After she came to my service she was on Dr. Hincks's panel, and I took steps to the best of my power to see that her insurance documents were properly completed. Coming to January, 1921, on the 11th January I asked Dr. Hincks to write a letter to Dr. Townsend, in which he said, "From what Major Armstrong tells me, she appears to have lost her delusions and to be normal mentally." That was the impression I derived from my last visit to Barnwood. I did not see Dr. Townsend's answer, "In my opinion she is not well mentally."

You were satisfied that she was sufficiently well to be trusted once more in her home?—There appeared to be no signs of the original delusions which were prevalent when I first went to Barnwood. I had no anxiety of any suicidal tendency when I got her out of the asylum. I said in my letter of the 14th to Dr. Townsend, "The original delusions have absolutely ceased, and I feel sure that the return to her home and old household duties will be beneficial." What I had in mind in drawing the distinction between her coming out on leave and being completely released was that I was under the impression if she came out on leave some one would have to come to examine her. I have since heard that it would not have been necessary, but I did not know at the time. On the 11th January I purchased half a pound of arsenic to make

weed-killer. (Shown diary for 1920, and referred to the entry *re* purchase of this arsenic)—That entry means three-quarters of a pint, 2 gallons H_2O weed-killer, and H_2O means water. Underneath that entry there is a note as to early potatoes. I was not going to plant early potatoes in January. The entry was put in to remind me for the next year. I copied in that in December, 1920. I may say I have a habit of putting memoranda at the end of one diary for what takes place at the beginning of the next year to be shown in the 1921 diary. That note would be written at least eleven days before I bought the arsenic. There is also an address there which I got from a gentleman in the train. It is rather scrawly writing. I cannot remember the actual month when I got that address, but it was about the end of the year when I was going up to town. I had many journeys up to town in November. My wife came back on the 22nd, and when she came back I should say she was well in her general health, but the whole of the time when we were together she complained of lack of power in her hands and feet, so that it would not be accurate to say she was physically well. My wife was an affectionate mother and very fond of her children and her home. From the time she came out of the asylum right down to the time of her death the anxiety that I had in August regarding her suicidal tendencies did not recur to me. At my request Dr. Hincks called on the 25th January, and on the 27th Nurse Allen came. I have no knowledge of my wife's complaining of nausea on the 31st January. I will take it that Dr. Hincks saw her on the 6th February and again on the 11th. I was told that on Thursday, 13th February, she started vomiting after lunch. I was not present. My wife told me on the Sunday that she had been vomiting on the Thursday. I do not recollect whether she remained late in bed some days after that Sunday. I have no knowledge of her vomiting on Monday, 14th February. I do not know whether she took invalid's food at that time. It was on Monday, 14th, that she sat out in the garden. I was not at home at the time, but she told me afterwards in the evening that she had had a visitor. I do not know whether the dressmaker called one of those days. Dr. Hincks was telephoned for on the 16th after my return from the office.

Dr. Hincks has told us he was telephoned for and went up there early?—I do not remember.

He referred to an entry in his books to refresh his mind, to show whether he went early or late?—I do not know. One evening that week I showed a couple of these homœopathic bottles to Dr. Hincks. I cannot fix exactly whether it was Tuesday or Wednesday. I asked Dr. Hincks whether he had any objection to her taking certain medicines, and he said he could not give any opinion until he knew more about them. I cannot say whether I gave him the bottles myself or whether my wife asked the nurse to get them and

give them to him, but they were given to him in my presence. I think it was on Tuesday, 15th. I do not remember what became of the bottles, but I remember Dr. Hincks telling me the next day that he had looked the matter up. It is quite possible that Dr. Hincks handed the bottles to me and said the contents might be taken, but my recollection is that I saw Dr. Hincks at his surgery, and he said there was no objection, he had looked it up. I cannot say whether my wife was given anything out of these bottles after that or not; the nurse was in charge. I did not have anything to do with giving her anything out of these bottles; I had nothing to do with giving her medicine in any shape or form. During the whole course of her illness I never gave her any food or anything to drink in any shape or form. I do not remember Dr. Hincks telling me on Wednesday, 16th, that my wife was too ill to get up, but about the middle of the week she was unable to get up—whether it was Wednesday or Thursday I cannot say. From that time she did not get up again. She got steadily weaker. I was getting increasingly anxious. I discussed her condition with Dr. Hincks, and I noticed that he also appeared to be anxious. It was on the Monday morning, the 21st, about ten o'clock, as I was going to the office, that Dr. Hincks told me she would not recover. I went to my office that morning. I wrote to Miss Bessie Friend when I got down to the office. I do not remember what I wrote to her.

Is this your postcard? (Shown postcard.) I observe this postcard records 11 a.m. on the 21st. Let me read you what you wrote on this news being given you that your wife was not likely to get better. "Monday morning. Many thanks for letters. Hope colds are better. K. (that is your wife) was slightly easier yesterday, but not had a good night." That was the report given by Nurse Lloyd, I believe. "Slept a bit with an opiate. Complains still of much pain internally, and vomits at intervals. Dr. H. hopes that the latter is under control, as not so frequent. Had local nurse to relieve Nurse Allen." That was written immediately after you had got the distressing information that your wife was dying. Is that true?—I am not sure. I notice at the bottom Mayfield is put in, and from the fact that I have these postcards at home this must have been written before I went down to the office, before I saw Dr. Hincks.

I thought you told me quite clearly that you wrote to Miss Friend after you had the information from Dr. Hincks?—There is a second letter written after seeing the very serious condition she was in. When I say I wrote a second time it may have been a telegram, but I certainly wrote or telegraphed when I was aware of the serious nature. I agree that for the last four days of my wife's illness she was quite helpless, unable to feed herself. I saw her each morning before I left to go to my office. I went a

little later each morning during her illness. I waited to hear Dr. Hincks's report. I came home to lunch each day except Thursday, Thursday being market day. It is quite possible that while I was at home for lunch I relieved the nurse. She was in and out of the room all the time. I would also be with my wife from five to 7.30 at night, between tea time and ordinary dinner time. Then after dinner I would go and sit there a little while. My wife died on the 22nd, and I went abroad on the 18th or 19th of March. I had a conversation with Mr. Chevalier after the funeral about my wife's will. I told him she had made a new will, leaving everything to myself, but that I should apply the income to the education of the children, as had been done in the past. We were both anxious that the children should be well brought up and have a good education. When I came back from abroad I went at once to Bournemouth. There was a letter waiting for me at my club. It was more convenient from the railway point of view to go from London to Bournemouth than to go home to Hay and spend two days travelling from Hay to Bournemouth. I left Paris on the 28th, and arrived at London and dined at my club. On the 29th there is an entry in my diary "Bn"—that refers to Bournemouth. I stayed at Ford Cottage, and on the 30th I returned to Hay. There is no entry in my diary between the 1st and the 12th, but during that time I wrote to Mr. Chevalier about getting a housekeeper. I think that was on the 8th. There is no entry referring to that in my diary. I would not make an entry of every letter I wrote.

Then if you would not make an entry of a thing like this, writing to Mr. Chevalier about your housekeeper, why do you make an entry with two initials following which happened to be the initials of the lady called here and whose name was not disclosed?—Because that is the very point referred to in a previous letter. There was no further necessity for me to remind myself.

But you wrote on the 8th May to Mr. Chevalier about a housekeeper, and you say it was not of sufficient importance to make an entry in the diary about it, and you did not?—I had previously made an entry to remind me of the same matter, the 28th, I think it was.

But that is to ask somebody else?—Yes, and then I wrote to Mr. Chevalier.

We will leave it at that. At any rate, on the 14th or 15th May you invited this lady to be your wife?—Yes.

Now, let me pass on to Mr. Martin. You have told us that before the 26th October Mr. Martin had had one invitation to tea, which was the only time you say he came in a sports coat?—Mr. Martin was only asked once in my wife's lifetime, and after her death this was the first opportunity I had. When I said that my wife was rather particular I meant that my wife did not like the way in which Mr. Martin dressed on the occasion of his visit,

and she took a dislike to him. That was the reason why I did not invite him to tea. I do not remember who were present at his first call when he came in flannels and a sports coat, but I believe there was an Army officer and his wife there who were staying in Hay. On the occasion of his visit on the 26th October, on the cake stand, on the top, there were scones; on the second tier, currant loaf; and on the third, bread and butter. My recollection is that the scones were not buttered. The reason why I asked him to tea on that occasion was because I thought it would be rather a civil thing to show to a brother solicitor, the only one in the town, and I wanted to get to know more of him. We were both very busy at that time; there had been completions and heavy sales.

What was the purpose of your inviting him to tea, which you had never done before, at a time of pressure?—I cannot give you any fixed reason. I had no general reason other than being a general social action. I had no special reason other than ordinary civility for asking him to tea. I remember an interview on the 20th October when the purchaser of two lots of the Velinewydd estate was present. I asked for more time. My firm were the stake holders of the moneys which he paid. I am sole partner of the firm. The deposits were something like £250 apiece. There were also expenses in the neighbourhood of £30 or £40 apiece, but they would not be returnable. After the letter of the 20th October, saying there would be no further delay, I on the 21st October made a further request for delay. I showed Mr. Martin a telegram I had received from the mortgagees' solicitor stating the reconveyance had been sealed, and that was the whole trouble about completion. I think he admitted that in his evidence. On the 26th October I left my office to go home about four o'clock, and I returned to the office about 6.30, after Mr. Martin had left, because I had not finished my work. A fresh matter came in as I was leaving the office. I do not remember how late I was kept at the office, but it would be over an hour. When I got home the first time that day I walked straight in through the house. The coats hang just outside the kitchen door in the hall. I was wearing my trench coat. I remember that it was a rather heavy coat, and I hung that up with my hat I am wearing here and went out into the garden at once. I do not remember going to the café close to my office that day at all. As we were sitting at tea that afternoon the cake stand was between us, but Mr. Martin would have to get up from his chair to reach it. I got up and handed it to him. He could choose what sort he liked.

Let me see if your statement is right after what you have told us. This is your signed statement—"The food consisted of buttered scone." Is that true or not?—At the time I gave that statement I was under the impression it was buttered scone, but, on carefully thinking of the matter since, that is not correct.

That was written in the office. I had always been accustomed to have buttered scones taken into the office.

By Mr. Justice Darling—When did you come to the conclusion that it was not right?—Quite early in having to make out my statement.

Cross-examination continued—Then you say, "I handed Mr. Martin some scone on a plate. He took some, and I also took some, which I ate, and I afterwards placed the dish of currant bread at his side on the table and asked him to help himself"?—Yes.

Did you hand Mr. Martin some scone on a plate?—I handed the whole show; it was on the plate, and I handed the whole stand.

"I handed Mr. Martin some scone on a plate. He took some, and I also took some, which I ate, and I afterwards placed the dish of currant bread by his side on the table"?—Yes, that is the table I refer to.

Is this a fair way of representing what took place—"I handed Mr. Martin some scone on a plate"?—I think so.

"I shall be able to ascertain by going to my house where the scones and currant loaves were bought." Was your impression at that time that the scones had been bought?—I thought they were; I was not at all sure. Sometimes scones were made by Miss Pearce, and sometimes they were bought. I am not quite sure whether it was the Thursday afternoon or the Friday morning that I asked Dr. Hincks what was the matter with Mr. Martin. I remember the letter of 6th December, which ends up, "As you have not complied with our original letter cancelling the contracts, we now write to give you formal notice that unless we receive the original contract for the purchase of the above land duly cancelled, with your cheque for the deposit and the fees paid by Monday next, we have instructions to take action against you as stake holders, and also against your client." The proceedings were threatened against us, but I never supposed that they would be taken.

On the 7th did you invite Mr. Martin again to tea?—I cannot remember the actual date; possibly.

Did he say that he was unable to go?—He gave various excuses at different times. They seemed perfectly reasonable at the time, but I do not remember the actual words that were used. I asked him to discuss business, the business the following day at my office. There was another matter I particularly wanted to see him on, a question arising out of the lodge of which we were both members; a legal question had arisen as regards some licensing matters, and I wished to discuss it as between two members. He said he could not come. I do not remember ringing him up

about five o'clock that day. I remember ringing him up one particular day, but I do not remember which day it was.

Did you say, "Are not you coming to tea. It has been waiting half an hour"?—On one occasion I had ordered in food and it was waiting.

By Mr. Justice Darling—These contracts should have been completed about February, 1920.

On the 6th December, 1921, he is writing to you saying that you are the stake holder, and unless the purchase is completed or the money returned he will bring an action against you?—Yes.

Why was not the purchase completed and the land conveyed to these people who paid their money in 1920?—Several questions had arisen on the title. In addition to that, the solicitor acting for the purchaser had died in the summer of 1920, and up to the time of his death he had not delivered the draft conveyance. I had been acting from the very start. The thing has not been completed yet. I was in a position on the 6th December to complete the purchase, but I did not do it, because he had threatened to rescind; he had broken off all negotiations. That was the reason why I issued the writ against him for specific performance. I think the letter in which he first broke off negotiations and said he wanted his money back is the letter of 20th October.

Had you any hope after that that he ever would complete?—I had very grave views, because I at once took counsel's opinion as to my position as regards whether I could commence an action or whether I should be bound to comply with his request.

Why did not you commence an action?—Because my writ had not been settled by counsel.

Do you want a writ for specific performance settled by counsel?—Yes.

Cross-examination continued—On the day that I phoned across to Mr. Martin he replied that I had not mentioned tea to him, and he had had his, but he would come over about 5.45.

Did you say that it did not matter, to-morrow would do, and perhaps he would come over and have tea with you?—That is quite right. I told you the subject-matter was not essentially an office matter.

Instead of coming over that day, although you had rung him up, you postponed it, and suggested tea together the following day?—Yes.

Did you invite him to it again on the 12th?—I do not remember the day. I invited him several times.

Did you invite him to tea on the 12th, and did he refuse on the ground that he was having tea with Mr. Davies?—He did mention the fact that he was then having tea with Mr. Davies.

Did you ask him if he could not put that off?—I believe I did say, "Cannot you be released," or words to that effect.

What was the importance of getting him to tea on the 12th?—The same reason.

Had it anything to do with the fact that the 12th was the date by which the cheque for the deposit and the fees had to be paid, as stated in the letter of the 6th?—Not in the least.

How many invitations did you give him at about that time to tea?—I cannot say—about half a dozen. I do not think more. He says twenty, I know.

Was it continued over a period throughout November and December?—At intervals.

By Mr. Justice Darling—Did he ask you to tea?—No.

Cross-examination continued—Now, I want to come to this time when you had this packet of arsenic, the 4-ounce packet, and you were staying, I think you said, with Mr. Cunliffe Moor?—Yes.

This was in June, 1921?—Yes, it was while Miss Pearce was away. My recollection is that I was there six weeks. It would be the month of June and two weeks in July, but I am not absolutely clear as to that. At that time I took the packet of arsenic out of the cupboard in the study. It was wrapped in two papers, which were both white. I think there was string round the packet, but I cannot remember.

By Mr. Justice Darling—Where was it at this time—the packet?—In the drawer of the bureau, in the same place as it is now.

When did you put it there?—In May, just after my return from abroad.

Cross-examination continued—Let us be quite clear; please correct me if I am not right. That is what you said yesterday, as I took it down, "Some time in May I put the packet of white arsenic in the small drawer in the bottom of the centre of the bureau"?—Yes.

And then you went to see it again in June?—I went to see it again in June, at a date I cannot actually fix.

By Mr. Justice Darling—I had taken the packet from the shelf in the cupboard before I put it into the drawer of the bureau.

Cross-examination continued—I divided the 4-ounce packet into two little packets of 2 ounces, roughly. Then from one of the 2-ounce packets I made some score of tiny packets, such as was found upon me. It was some date in June that I did that, but I cannot actually fix the date. It was one evening when I went across to Mayfield. I made them in the study at Mayfield.

How did you decide how much each packet was to have inside it?—I simply took a small quantity on a penknife. I did not weigh them. The whole thing was approximately. I made the score of packets in one evening. I used them the same evening as they were made.

By Mr. Justice Darling—You used them all?—Yes, all but the one that was found.

Cross-examination continued—I used them by driving an old file or piece of metal into the ground, and then I dropped the stuff down into the aperture that was made. I did this in the case of each dandelion I wished to kill. I took a separate dose for each dandelion.

Will you tell my lord and the jury why you went to the trouble of making separate packets for each dandelion when you could have taken your little parcel of arsenic out and put the same quantity of arsenic in by taking it on your penknife and putting it in the hole made by the metal instrument?—Well, it was more convenient to have a separate little packet for each one than it was to take the thing out and scatter it about.

I am not saying scattering?—The tendency would be to scatter it in the open air.

I am suggesting when you made the hole you might have dipped your penknife into the packet and put the arsenic into the hole?—I might have done that; it did not occur to me.

You would lose a certain amount of powder, because a certain amount of that very fine powder sticks to the paper?—I suppose it would. I have not thought of that particular point.

Can you tell us also how you came to use nineteen of the score and not the twenty?—I do not know. I did not count the number that I was using. I simply took them out of my pocket as I wanted to, and was under the impression that I had used the lot. Apparently I had not used the last. I did not stake out twenty dandelions. I used the balance of the 2-ounce packet of arsenic by mixing it with caustic soda, testing the solubility of it. That test was made in the nursery, where there was a gas ring. I used the whole of the 2-ounce packet in this experiment. I mixed the caustic soda with it. I poured boiling water on it. I tested different samples of the 2-ounce packet. I made all these experiments on the one day. I must have been working for about a couple of hours one evening at them. The date I made the experiments with the caustic soda and the arsenic was after I dealt with the dandelions; I think it would be the same week. I threw away the results of these experiments in the lavatory. I did not use it on the weeds. It was very hot and dry weather, and it was unsuitable to use it on the weeds at that time. When I was arrested and all the contents of my pockets were put into a piece of brown paper and folded over, I do not remember whether there was some form of blotter just put on the top over the brown paper. If the inspector says a blotter was put on the top I have no doubt it is correct. I thought the leave to look at the business letters included the right to look into that parcel. I asked if I could look at these letters, and I was told "Yes," and I thought that included it. I looked into the bundle,

and the first thing I found was the telegram I was looking for, and in the course of turning over my business letters and what not I saw the white packet that has been produced. I remembered that this packet of white arsenic must be one of those I prepared that day in June for the dandelions, and that brought the whole of the circumstances, the making of the packets and using them, to my memory.

By Mr. Justice Darling—It all came back to my memory when I saw this little packet on the table.

When you saw the little packet on the table among the letters, then you remembered how you had found the 4-ounce packet in the cupboard and divided it into two 2-ounce packets, made twenty little packets, used them on the dandelions, and put 2 ounces of white arsenic back into the drawer in the bureau? —I cannot say I remembered every incident of that.

Did you remember what I have just asked you?—Not the whole detail.

Did you remember that you had put about 2 ounces of white arsenic in the drawer of the bureau?—I remembered that, yes.

And the police were then in the room with you?—They were.

Had you then made your statement or not?—I had then made my statement, and I had been arrested.

Cross-examination continued—You had made your statement? —About an hour before.

This statement contains corrections which are initialed by you?—There were some verbal corrections, after reading it through, that I made; I do not remember what they were. I initialed each correction. I will take it that there are nineteen initials on the statement.

And that, of course, was done to make it as accurate as possible?—As accurate as I could at that time when it was given. I expressed to the police my anxiety to be of all the service I could to them. I gave them every assistance.

When you found that little white packet in your pocket, the whole of the position of these 2 ounces of arsenic flashed back into your memory?—Yes.

And you knew it was in the bureau?—Yes.

I am going to read you your statement, the statement made an hour before—" The first time I purchased arsenic was in 1914. At this time I came across a recipe for weed-killer, consisting of caustic soda and arsenic, which was very much cheaper than the liquid weed-killer which my gardener had previously been in the habit of purchasing. I therefore purchased arsenic and caustic soda from Mr. Davies, chemist, of Hay, and signed the book. I remember him telling me that the arsenic had to be mixed with charcoal, and he mixed it accordingly. I made the weed-killer at my house by boiling the caustic soda and arsenic in an old petrol tin. I think I put in all I purchased. It might have been in

the proportion of equal parts of each, but I do not remember. I think Miss Pearce will remember the proportion. It was all used in the garden as a weed-killer. I have always had considerable trouble with weeds on the part of my vegetable garden. The purchase of half a pound of arsenic in June, 1919, was for the same purpose, and was used in exactly the same way "?—That was my recollection at the time I gave that statement.

And you thought it had all been used up?—Yes.

And those words are intended to convey that it was all used up?—I thought so at the time.

"The liquid and powder weed-killer were purchased to my order by Jay, of Castle Gardens, Hay, who attended to my garden at that time. I do not even know how much was purchased, and I never saw it. I believe it was kept in the stable." So, with the statement finishing there, to your belief at that time you had used up the whole of the 1919 arsenic?—Yes, I thought so.

"In January, 1921, I made a further purchase of quarter of a pound of arsenic at Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself." When was that?—That is wrong; I have admitted it.

"It was not a success, which explains why I have some left in my house. When I purchased this arsenic it was mixed with charcoal"?—I had mixed up the whole of that with the 1919. It is consistent with the statement of the 1919.

"When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on. I remember talking to Mr. Taylor, the bank manager of Hay, respecting my recipe for weed-killer. I remember being pleased at being able to make my own weed-killer at a much cheaper rate than the prepared article, which after the war was very dear, and I could not afford it. This last preparation I carried out myself as before by boiling the arsenic with caustic soda in a petrol tin. Although I have no motor car, I use petrol for a petrol gas installation." So that suggests this, does it not, that you had made weed-killer of arsenic purchased in 1921, and had made it by boiling it with caustic soda in a petrol can?—Yes, that was wrong.

That gives us a good deal of detail. This is what your statement means?—I quite agree.

In January, 1921, you purchased the arsenic, mixed with caustic soda, boiling it in a petrol can, and used the preparation?—Yes; as I say, I had mixed it up with the 1919.

Now it goes on, "The cupboard where I keep the arsenic at my house contains boot-cleaning materials, and is unlocked. Nobody in the house, so far as I know, is aware of the presence of arsenic in the house. This arsenic I speak of"—that is the arsenic that you had referred to above, that you purchased in 1921—"is the only poison in my possession." You are referring there to the arsenic which had been mixed with charcoal?—Yes.

By Mr. Justice Darling—When you said as to the 1921 lot, "I mixed it up with the 1919 lot," you mean you had confused it in your mind?—Yes, I had confused it in my mind.

Cross-examination continued—"This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine. I have a medicine chest in my bedroom." Within an hour of signing that statement, by finding the little packet of white arsenic, you knew that statement was wrong?—Yes.

And, although you knew it was wrong, you took no steps with the police to correct it?—In the meantime I had been arrested.

By Mr. Justice Darling—You mean you made the statement before arrest?—I made the statement voluntarily before arrest.

Then you were arrested; then later on you saw the little packet and remembered that what you said in your statement was wrong?—Yes. It was a very great shock, the arrest, naturally; and I then decided to say nothing further until I had seen my solicitor.

Cross-examination continued—And to allow the police, to whom you had promised to render every assistance, to go away with a misleading statement in their possession. This statement is quite misleading, is it not?—When that statement was made I did not know I was going to be arrested.

We have passed that. You were allowing the police to go away with what you knew was a misleading statement in their possession?—I am afraid I did not think very much about it, about what the police were going to do. I was too much overcome by the position I had been placed in.

You had offered to Inspector Crutchett, after arrest, had you not, to show where certain articles were if you had the opportunity of going to the house?—I do not think so after the arrest.

I am putting what is said in cross-examination in answer to your solicitor, Mr. Matthews—"Armstrong offered to show me where certain articles were if he had the opportunity of going to the house"?—Yes, quite so; but my recollection is that that was before the arrest, after the statement was made.

"He volunteered to give me any assistance, and immediately made the statement which has been produced and read. There was not the slightest obstacle placed in the way of my search by either Mr. Armstrong or the clerks." When was the search carried out, after the statement or before?—After the arrest. It was going on for two and a half hours or three hours.

This is what your solicitor elicited—"I had every facility for searching the office and every assistance from the clerks up to Monday evening. After finishing at the office on the Saturday I went at once to Mayfield. A thorough and systematic search was made of the whole house. Armstrong offered to show me where certain articles were if he had the opportunity of going to the house." Was not that after you had been arrested?—No.

You could have told the police on that day exactly where to find the white arsenic, could you not?—In the event of what is put there I could, certainly.

You could have told them before they left your office and immediately after arrest where they could find the white arsenic?—I could have.

And you did not?—I did not. I was waiting, as I told you; I gave you the reason.

By Mr. Justice Darling—You were waiting to consult your solicitor as to whether you should tell the truth to the police, were you?—I do not know whether you——

You had told them what you realised was not true; you had confused the two things. You had come to know the white arsenic was in the bureau; you could have told that to the police then. Do you mean to say you waited to consult your solicitor as to whether you should tell the truth to them?—I waited to tell him the whole of the facts.

And go by his advice as to whether you should tell the police?—Yes.

Your words were just now, "I decided to say nothing further until I had seen my solicitor"?—Yes.

Now you told me you had realised at that time that what you said was not true, and you could have told them the truth that you had got white arsenic, and that it was in the drawer of the bureau?—I was very much confused at the time. I do not remember the absolute train of thought that led me to; the principal thing in my mind was that I wanted to see my solicitor.

Cross-examination continued—At the time while the police were still with you after the arrest you could have told them where to find white arsenic at Mayfield?—After the arrest, yes.

And you knew these last three lines in your statement were untrue—"This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine." You knew that to be untrue?—I do not think I had those particular words in my mind at the time.

By Mr. Justice Darling—But you had seen the little packet, and knew you could tell the police where there was white arsenic in your bureau. Did you not know that what they had got in writing in the statement was not true?—I did not refer to the statement; I did not read the statement.

I know you did not refer to it, but if you had known that the police were under a false impression why did you say, "I decided to say nothing further until I had seen my solicitor"?—I was astonished at finding that piece there; I did not know how it was going to affect me as regards my defence.

Did you or did you not realise that you had left the police at that point under a perfectly false impression as to what arsenic you had got?—No, I did not.

Evidence for Defence.

Why did you want to consult your solicitor before you should say anything further?—I was mad with having found this little packet, and I was not at all sure how it would affect my defence.

You have told us already that you realised then when you found the packet that what you have stated was wrong. Let me read it to you—"What I there said as to how I boiled and used the arsenic bought in July, 1921, is wrong; I had mixed it up with the 1919 lot; I confused it in my mind. I made the statement before my arrest voluntarily, then I was arrested, and later I saw the little packet and remembered that what I had stated was wrong; I decided to say nothing further until I had seen my solicitor. Before the police left my office I realised that I could have told them where to find the white arsenic at Mayfield." All that is right?—That is quite right.

Cross-examination continued—You knew that that little packet would require explanation, did you not?—Obviously.

You realised that that packet being found in your pocket raised an awkward situation for you, did you not?—Yes, I have been a magistrates' clerk for sixteen years. I remember that this case was heard at the Police Court on the 9th, 10th, 11th, 12th, 19th, and 24th January, and 3rd, 9th, and 17th February. Mr. Davies, the chemist, was called before the magistrates in my presence, also Hird, his assistant. I did not hear any question put to either Mr. Davies or to Mr. Hird that the arsenic sold in January, 1921, had never been coloured.

Then in no way was any suggestion made throughout the whole of the proceedings before the magistrates that there was in existence this other packet of white arsenic?—No.

And the fact was never disclosed until one day last week in this Court?—I think that is correct.

Then may I take it from you first that the statement that you made to the police before they left was to your knowledge untrue?—The original statement that was made before arrest was incorrect.

And you determined, although you remembered all about it, to say nothing about the white arsenic to the police who were still present in your room?—I had told my solicitor, and the conduct of the case was left in his hands.

I am speaking of the afternoon in your office on the 31st December. You decided at that time that you would leave the matter of the knowledge of this white arsenic and the inaccuracy of that statement as it was while the police were still in your office?—While they were in my office, yes.

Re-examined by Sir H. Curtis Bennett—I had not the remotest idea upon the 31st December that the police were coming to see me. When they did come I volunteered to make the statement which was taken down, and that statement at the time I was making it was, to the best of my recollection, a true state-

ment. That statement having been taken down and having been signed by me, I was then arrested on a charge of attempted murder. It was a very great shock to me, indeed. It was almost immediately after I had signed the statement that I was arrested. Inspector Crutchett said, "Superintendent Weaver has got something to say to you," then he turned round to me and arrested me.

There was no consideration of my statement before arrest. It was about an hour after that that I was looking through my business letters. There were amongst that bundle of letters in the brown paper business letters, and when I was given the leave to look at my business letters I understood that to include the letters in the packet as well as the ones upon the desk. Amongst those letters in the bundle I saw this little packet. The police did not tell me at that time that they were coming to Mayfield to search. I only knew that a few minutes before I was taken to the cells, about four o'clock, roughly. All that time I had remembered that in the bureau there would be 2 ounces of white arsenic, and I was under the impression that the police would find that packet. Next morning I sent my managing clerk over to Hereford for the purpose of getting the assistance of Mr. Matthews. Mr. Matthews came out to Hay to see me. I told Mr. Matthews at that first interview about this packet. On the next morning, the 2nd January, which was the first hearing at the Police Court, at my request Mr. Matthews from time to time pressed Mr. Micklethwait for a list of what the police had found at Mayfield. It was a long time before any list was supplied. The amount which I gave of the arsenic which I said in my statement was purchased in January, 1921, was really the amount which was applicable to the arsenic which I had purchased in 1919. I was not deceiving the police at any time as to being in possession of arsenic.

Just to remind the jury of one sentence only—"The cupboard where I keep the arsenic at my house contains boot-cleaning materials, and is unlocked." So that you were at the first moment before your arrest, at a time when you did not know you were going to be arrested, making a voluntary statement telling the police that you were in possession of arsenic and telling them where that 1919 packet was?—Yes.

You were asked whether you were present when Dr. Hincks examined Mrs. Armstrong on 18th August, 1920. Just look at your diary (exhibit 14) for August, 1920. You said yesterday you were not there. Read through the note, "Town, met Wade, 50 St. James Street, Devonshire Club, 8 p.m." Does that show that on that day when Dr. Hincks examined your wife you were in fact away altogether?—Yes. Upon the 22nd my wife was taken to Barnwood. She was quite able to understand that she was being taken away from home. She was a woman who was devoted to her home and to her children. She was very disturbed at being

taken from her home. As regards the second will, I told Miss Friend in August, 1920, that my wife had made a second will, so that from that time she would know that the will which she was in possession of, the 1917 will, had been superseded. I had not only made up my mind, but I had in fact told Miss Pearce as to my intentions about the £12 a year, that I would pay her £12 a year. I told her that after my wife's death. As I have already stated, I intended to use my wife's money upon the children's schooling. As a matter of fact, the eldest girl is at school at Malvern and the boy is at Monckton Coombe Junior School, outside Bath. They are both good schools. I took the boy down to Bath about the 13th or 14th May; I am not sure of the date. My girl has been kept at the same school she was at when my wife was alive. The school at Monckton to which my boy was sent was the school which my wife in her lifetime had chosen for him. As a matter of fact, instead of spending my wife's estate in paying for those two schools, I have paid some cheques out of my own money. As regards the entry at the end of the diary for 1920, that entry was not written with the idea that all sorts of people would be asked whether they could read it or not; it was an entry for my own information to refresh my memory.

The Attorney-General has suggested to you that it was put upon that page before Mr. Barnet, of Camomile Street, had written his name lower down?—From my recollection it was put in because I had met Mr. Barnet in November.

And Mr. Barnet had been handed this book and made that entry?—In a railway carriage.

That left this little space which the jury have seen above Mr. Barnet's name?—Yes. As regards the entry on early potatoes, as a matter of fact, I buy my potatoes early in the year for the purpose of getting them sprouting. That would be one of the late notes in my book.

You were asked why it was that you did not use for the purpose of the weed-killer any of the arsenic which you purchased on the 11th January, and you said that between the 11th January and the 22nd, when your wife came back, there would only have been one Saturday?—Yes.

I want you to look at your diary for 1921, and there you find in the diary a note that upon that one Saturday you were in bed ill?—I find it is so, I was in bed ill. The diary shows that I was also in bed ill on the 13th, 14th, and 15th, and partially on the 16th.

Mr. Justice Darling—You had still got it intact.

Re-examination continued—Let us get that quite clear. When you bought it in January, 1921, did you put it into the cupboard or the bureau?—I put it in the study cupboard.

There it remained until when?—Until I returned from my holidays in the middle of May. I did not touch it from January

until May. My recollection is that the arsenic cost somewhere about half a crown a pound. Quarter of a pound would cost 7½d. I have not looked it up, but I take it there are 7000 grains in 1 lb. Taking that as the figure, it works out that these little packets of 3½ grains would cost 1/66ths of a penny, so that for 1d. you could destroy 66 dandelions.

As regards the Velinewydd estate, the 20th October was the date upon which the letter was written by Mr. Martin to me saying he wanted to rescind the contract, and the 26th October was the date upon which I wrote to him saying my client would not consent to such a transaction. After that I took the opinion of Mr. Jolly, a Chancery barrister, upon the matter. I do not remember the date upon which I got Mr. Jolly's opinion, but after taking his opinion I instructed him to settle the writs. The writs produced, issued on 10th December, were in fact settled by Mr. Jolly.

So that from the 26th October you were not allowing the matter to rest, but you were taking counsel's opinion, and you finally got him to settle the writs?—That is right. Upon the morning of the 22nd February Dr. Hincks told me at his surgery that my wife would not live. I had looked into his surgery on my way to the office. The postcard which I sent to Miss Friend has on the bottom of it the word "Mayfield." It is a postcard belonging to a society, and it is one that I would not have in my office. I must therefore have written that postcard at Mayfield before I went to the office that morning.

There is one thing I have to draw your attention to on the postcard: "Complains of much pain internally and vomits at intervals. Dr. Hincks hopes that the latter is under control, as this is not so frequent." Is that correct, because it is important that by the morning of the 21st February the vomiting was not so frequent?—That is my recollection.

By Mr. Justice Darling—Had Dr. Hincks been there that morning before you wrote that?—No.

Re-examination continued—Had he seen her in the afternoon of the Sunday?—Yes, some time on the Sunday.

And is this correct, "Vomits at intervals; Dr. Hincks hopes that the latter is under control, as this is not so frequent"? Was that the position on Sunday, two days before her death?—My recollection is that Dr. Hincks told me somewhere about Sunday—I cannot exactly fix the date—that the vomit was under control. It is my recollection that the vomiting in fact was better on the Saturday, Sunday, and Monday, than it had been on the Wednesday, Thursday, or Friday, and that is corroborated by the fact that I wrote that postcard on the Monday morning. I am not quite clear whether I sent a letter or a telegram after I had the intimation from Dr. Hincks that he thought my wife was not likely to live. I thought at first it was a letter, but I have a recollection that Miss Friend told me on her arrival after the death that some-

thing had been brought to her at the station—whether it was a telegram or a letter I have only a hazy recollection, but I certainly communicated with her at that date. In consequence of my communicating with Miss Friend, she in fact came to Hay the following day. On the occasion of Mr. Martin's visit when my wife was alive, he came in flannels and a sports coat. My wife was a lady who was very particular about formal matters of that sort, and this was the first time Mr. Martin had been to our house at all. It was in consequence of the way he was dressed that he was not asked again during my wife's lifetime.

By Mr. Justice Darling—I have already explained what I did with the 4 ounces of white arsenic I purchased in January. I have never had white arsenic before; it was always coloured with charcoal.

How was it when you made your statement to the police you were so particular as to tell them you had mentioned all the arsenic you had excepting any that might be in medicine of which you would not know? How was it when you told them so carefully of all you had got you put in that statement that there might be other arsenic in medicine? How can you account for having forgotten all that arsenic—the only white arsenic you ever had?—I cannot account for it.

You had tried an interesting experiment by mixing it with caustic soda, not in a tin, but in a glass. Is that so?—Yes, quite correct.

And that accounted for 1 ounce of it, and as to the rest you had made it up into twenty little packets?—Yes, my lord.

And with regard to nineteen of them you gave separate doses to nineteen dandelions?—Yes. I noticed that these dandelions died afterwards.

That was very interesting, was it not?—It was at the time, but it had passed from my mind.

Do you tell the jury that you absolutely forgot about that white arsenic?—I do.

And the dandelions?—The whole incident had passed from my mind for the time when I was making that statement.

Did it not strike you afterwards that it was very remarkable to forget. You are a solicitor?—I follow that.

Does it not occur to you it would have been a very, very bad case for you if you had to tell the police that you had got not only weed-killing arsenic, but white arsenic in your possession?—But I did not remember it.

That is not what I asked you. Does it not appear to you if you had made a statement to the police that you had got arsenic in your possession it would have been a very bad thing?—It would have to be explained.

You see that?—Yes, quite, now.

When you saw the little packet, and you realised that you

had got white arsenic in your pocket, did you realise that it was just a fatal dose of arsenic, not for dandelions only, but for human beings?—No, I did not realise that at all. I only studied chemistry at school. I realise now that every one of those little packets I made up, if they were the same as the one found in my pocket, every one contained just a fatal dose of arsenic for a human being.

The suggestion is that the moment you remembered that you tried to get it back?—I could not, because Inspector Crutchett was on the other side. I know now, since the evidence has been led, that that packet contained a fatal dose of arsenic.

If you were simply dosing dandelions, why did you make up that 1 ounce of arsenic into twenty little packets such as that found in your pocket wrapped up in paper?—Because of the convenience of putting it in the ground.

But you did it all in one day?—I dosed them.

All at the same time?—Yes.

Why go to the trouble of making up twenty little packets, one for each dandelion, instead of taking out the ounce you had got and making a hole and giving the dandelions something from the 1 ounce?—I do not really know.

Why make up twenty little packets, each a fatal dose for a human being, and put them in your pocket?—At the time it seemed to me the most convenient way of doing it. I cannot give any other explanation. I am not sure whether all the police officers left my office with me after my arrest. Before I left the office I had remembered that I had 2 ounces of arsenic in my bureau which they did not know anything about. I did not tell them anything more about it, although I knew my statement did not say anything about it. I was told that they were going to search Mayfield about four o'clock. I thought they would find it then.

Did it not occur to you when you thought they would find it that it would be much better to make a clean breast of it and tell them, "I forgot it when I made my statement, but I have remembered it since. When you make your search you will find 2 ounces of arsenic." Did it not occur to you that that would be the best thing to do?—I thought I had better keep my mouth shut, as I said before, until I had seen my solicitor.

I am assuming that you thought they would find it. You are a man accustomed to criminal procedure. Would it not have been better to make a clean breast of it and say, "It is in the drawer of the bureau"?—It did not occur to me.

I understand you kept all this to yourself, and sent for Mr. Matthews the next morning?—Yes.

And after the consultation with him you did not even mention to the police that the arsenic was in the bureau?—I will not go as far as that. I told Mr. Matthews on Sunday where it was.

You did?—Yes.

And from the moment he knew that you simply tried to get during the Police Court proceedings a list from the police of what they had actually found?—That is so.

And the police never found it?—Apparently not.

Do you not think if they found it they would have produced it?—Perhaps they would.

What is your opinion—that they found it or not?—No. I do not think they did.

And when they did not find it, you say you got a list, and the arsenic was not in it?—Yes.

As far as the police officers and the prosecution were concerned, they knew nothing about it until Sir H. Curtis Bennett opened these facts to the jury yesterday. Is that so?

Sir H. Curtis Bennett—No, I produced it last week, my lord.

The Attorney-General—Yes, it was produced when Mr. Davies was in the box, on Thursday, I think it was.

By Mr. Justice Darling—Was it, as far as you know, purposely concealed from the police until last Thursday?—Yes, as far as I am aware. I heard the cross-examination of the police as to the cavity behind the drawer. The arsenic was not in the cavity behind the drawer, it was in the drawer itself.

Then what is the purport of the cavity?—I do not know.

Your counsel put a question about the cavity.

Sir H. Curtis Bennett—With respect, no, my lord.

By Mr. Justice Darling—There was a question asked you. There is no question about it ever having been in the cavity?—No. As a matter of fact, there was no cavity for it to go into. Where I put it was the actual drawer of the bureau, the one between the two pillars, and that was where it was found. My case is that the police searched and did not find it, and that it was there all the time. If they had looked in the drawer they would have found it.

And what you say is, you thought when the police were going in search they would find it?—I thought so. I thought it would be obvious on opening that drawer.

And you ran the risk of their finding it or not?—As your lordship puts it.

Is that so?—I did not think there was a risk. I thought it a certainty they would find it.

If you thought they were certain to find it why did you not try to get credit for yourself by telling them where it was?—I can only repeat that I thought I had better say little further then, as I was under arrest, and that I had better keep my mouth shut. I hope your lordship will allow me to say that it was a very great shock to me at the time, and I had not, perhaps, the opportunity of thinking as clearly as I would now. If the same thing were

occurring now at the present moment I should act differently, undoubtedly, to what I did in the then condition of my brain. At that time it was a great shock.

Yes, but, according to you, you had done your best to keep it secret till last Thursday?—I was surprised at it, my lord.

Inez Margaret Price, examined by Sir H. Curtis Bennett—I am the wife of Owen Price, the manager of Barclay's Bank at Hay. I first met Mrs. Armstrong in 1914 or 1915. She called on me, and I returned her calls on a few occasions before she went away, when Major Armstrong joined the Forces. I remember Mrs. Armstrong going away in August, 1920. I recollect seeing her on Monday, 14th February, 1921, after she returned from Barnwood. It was somewhat between three and five in the afternoon. She was sitting out under the verandah at Mayfield. I cannot tell how long I was with her, but I think it might be three-quarters of an hour. When I left she was still outside under the verandah. I recollect the date, because at the time of her death I remember estimating the time since I had last seen her as being eight days. I can also fix the date from the fact that I had a new costume by post that Monday morning, and in that costume I was to go to Mayfield to see Mrs. Armstrong. When I returned from Mayfield I sent a cheque for the balance due for the costume. The cheque is in Court. The cheque is dated the 14th, and the receipt is dated the following day, the 15th February.

Cross-examined by Mr. Vachell—I was not on intimate terms with Mrs. Armstrong. I had seen her on a few occasions. I only saw her on that one occasion after her return from Barnwood. I did not see the nurse. I saw Miss Pearce. I cannot say whether she was in charge of the invalid. I thought Mrs. Armstrong was very frail.

Emily Davies, examined by Sir H. Curtis Bennett—I was formerly in the employment of Major and Mrs. Armstrong. I went there some time early in 1919. During the year I went there Mrs. Armstrong suffered from neuritis in her hands. I saw her on one occasion using an electric battery. She also complained of indigestion and headaches. I remember during the summer Major Armstrong boiling some water in a petrol tin in the kitchen. I knew it was weed-killer he was making, but I did not know what was in it. During the summer of 1919 I often saw Major Armstrong doing something to the paths. The weed-killer was kept in the outhouse after it was made. I was not told anything about what sort of stuff it was, except that it was poisonous.

Cross-examined by the Attorney-General—I left before Christmas. I cannot tell exactly when it was that Mrs. Armstrong complained of suffering from neuritis, but she complained on different occasions during the summer. Sometimes she had it in the one

hand and sometimes in the other. I was first spoken to about giving evidence while the case was on the first time. Mrs. Armstrong said that it was neuritis that she was suffering from. I remember her putting her arm in a sling. It was the right arm. I remember one of her wrists being swollen.

THOMAS ALFRED MATTHEWS, examined by Sir H. CURTIS BENNETT—I am a solicitor, carrying on practice at 6 King Street, Hereford. I was admitted a solicitor in 1904, and I have been in practice here since 1909. I knew both Major Armstrong and Mr. Martin before this case started, but not intimately. On the 1st January of this year I was sent for to go and see Major Armstrong, who had been arrested at Hay. He made a verbal statement to me that day, and in consequence of that statement I went to Mayfield, and went into a small study. Miss Pearce was in the room while I was there, and probably Mrs. Price, the servant, came in while we were in the room. In consequence of what I had been told I desired to look in one of the drawers at the bottom in the little open cupboard of the bureau. Miss Pearce, at my request, pulled the drawer open so that I could see in. She opened all the drawers. The particular drawer I went to look into, when it was opened, was apparently perfectly empty. It was the centre one, the one in question. The drawer was not pulled right out on that occasion; it was only pulled out 3 or 4 inches. There were no keys in the drawer. I have a recollection that on one occasion I saw some keys and labels in one of the drawers, but I do not remember which drawer it was. Upon that very same day that Major Armstrong had made a statement to me and I had been at Mayfield I consulted Mr. Bosanquet in the evening. I made a statement to him, and took his advice.

By Mr. JUSTICE DARLING—Did you follow it?—I did.

Examination continued—I appeared from time to time for Major Armstrong during the Police Court proceedings. I constantly pressed the prosecution for a list of what the police had taken from Mayfield, both publicly to my friend Mr. Micklethwait and privately. On Thursday, 9th February, one of the days upon which there was to be a hearing at the Hay Police Court, before going there, I again went to Mayfield. I had not been there between the 1st January and the 9th February. On that occasion I was accompanied by my managing clerk, Mr. Chivers. He came into my employment on his discharge from the Army, in May, 1919, I think. I had the highest testimonials prior to that regarding him. When we arrived at Mayfield we went into the study. We found there the file which has been produced marked "Garden." In that file we found a recipe for weed-killer—the one which was produced when Mr. Crutchett was in the box. We also found all the other things which are now in the file. I cannot say whether by that time I had succeeded in getting from

the prosecution a list of what the police had found at Mayfield, but my impression is that I had some sort of list at the time. I think it fair, however, to say that I never had the complete list for which I had been asking identifying those articles. I had a special reason for asking that those articles should be identified, and I have never been supplied with that. At any rate, by the 9th February, no little packet of white arsenic had been produced in Court. After looking at the file we then looked at the bureau. My impression is that the flap of the bureau was closed and I opened it, but I cannot be certain. I distinctly remember a sort of cardboard almanac in front of the cupboard. I moved the almanac and opened the little cupboard. The little cupboard is inside the bureau after the flap is down. I noticed as I pulled the drawer to open it that the posts at the sides of the drawer were loose, particularly the one on the right-hand side. I am not quite sure about the one on the left-hand side, but I rather think it is the least bit loose. Having got the cupboard open, I pulled the drawer open as far as it would go—I should think, roughly, 4 inches. It then stuck. It appeared to be empty, just as it had been before. I then put my hand inside the drawer, and I felt some paper at the top of the drawer. Having felt this paper—I had no idea then what it was—I proceeded to dislodge it, and when I did dislodge it I found it was a packet. Then for the first time it flashed across my mind what it was. I took the packet out. It was contained in blue draft paper, just as it is produced here. (Referring to exhibit No. 60)—A number of people have handled it since then, and it is crumpled; it was quite fresh when I took it out. It had string on it. I opened the blue paper and I found the white packet inside. I turned over the white packet and saw the label bearing the words "Arsenic, poison, G. L. Davies." When we pulled the drawer out after examining the packet I then saw a white powder at the bottom of the drawer. I did not know if it was arsenic or not. After we had removed the packet we were able to pull the drawer right out. We got to Mayfield about 10.10 that morning, and it must have been about 10.30 when we discovered this. We had to be at Hay Police Court at about eleven. Mr. Chivers saw this packet. We put it back as nearly as possible in the same place, and we put the bureau back exactly as we found it. We closed the flap. We then locked the door of the study, which had not been locked previously. I think my managing clerk kept the key of it; at least one of us had it, and brought it back to Hereford that evening. Having found that packet, and having replaced it in the same position, as near as we could, on the Thursday, I then fixed up a consultation with both my counsel, Mr. Bosanquet and Sir H. Curtis Bennett. I fixed up a meeting with Mr. Bosanquet on the Friday, as he happened to be coming to Hereford. That was Friday, 10th February. I had a consultation with Sir H. Curtis Bennett in his

chambers on the 13th February. I took their advice, and subsequently acted on that advice. As a result of that, I returned to Hereford on the 13th, the Monday, and upon the next day, the 14th, I went in company with Dr. Ainslie, a well-known doctor in Hereford, out to Mayfield. We were accompanied by my managing clerk, Mr. Chivers. I there, in the presence of Dr. Ainslie, removed that packet from the place I had put it back to after we had found it on the 9th. First of all I opened the drawer in order to show them it was apparently empty before I actually removed the packet. I pulled it out 4 inches, and as far as you could see there was nothing to be seen. Dr. Ainslie also tried to put it up into the place where I had found it. We then removed it and placed it in a tin. The tin was sealed up and a paper put round it, and it was brought back to Hereford, when it was opened by Dr. Ainslie and another medical man, and a certain amount extracted to be sent away to an analyst. It was first of all weighed, and it was found to be 2 ounces less 15 grains. The small amount having been removed from it for the purpose of analysis, the remainder was put back again into the tin and sealed up, and it remained sealed up until the seals were broken by Sir H. Curtis Bennett the other day. The case was adjourned until the 17th February, when expert evidence was called, Dr. Spilsbury and two others. On the 17th February I made a search in the cupboard on the left-hand side of the fireplace, but I found nothing of importance. On the 24th March I again went to Mayfield, and on that occasion I brought away some testing glasses. I also brought away a great number of homœopathic empty bottles.

Cross-examined by Mr. Vachell—When you went to Mayfield on the 1st January did you go there for the express purpose of finding a packet of white arsenic?—That was one of the purposes, I will not say express purposes—or, rather, seeing if it was there. The drawing-room was the first room that we entered, and then we went to the study. We did not make any search in the drawing-room. I remember asking Miss Pearce to open drawers in the bureau in the drawing-room as well as in the study. She opened them. We then went to the study, where the bureau was. I knew beforehand of the existence of this little centre cupboard, and I knew that at the bottom of that little cupboard there was a drawer. One of the objects of my visit was to explore that drawer.

For the purpose of obtaining from there a packet of white arsenic?—No.

For what purpose?—For the purpose of seeing if it was there.

That is the same reason?—No, if it had been there I do not know that I should have obtained it.

Let us say for the purpose of ascertaining if it was there?—Yes, if it was, I do not know that I should have removed it; I

may or may not. Neither of my clerks was with me on that occasion; I was fetched on the Sunday morning, and I was quite away from any of my staff. Miss Pearce was present. She opened the drawers at my request. She did not know what I was there for, and I did not want her to know. I asked her whether she had been present when the bureau was searched by the police, and she said she was, and my impression is that Mrs. Price was in the room at the same time, but I would not be positive.

Did you ascertain from her and Mrs. Price, or either of them, that this very drawer had been searched by the police, had been opened?—Yes.

And searched?—I would not say searched. I said, "Did they open this?" and I mentioned each drawer. I particularly remember her saying "Yes" to that one, because I was directing my attention to that one. I think she told me that there were three police officers, Mr. Crutchett, Mr. Weaver, and Mr. Sharp, searching the drawers.

Did you hear that in their presence the bureau had been searched?—I heard they were there and they opened the drawer.

Did you ask if they found anything?—Not in particular; I asked what they had taken away, and, of course, she did not know. She then opened the drawer. I observed the drawer stick when she was trying to open it. I have a recollection, as I said a moment ago, that the pillar was loose, and that prevented the drawer coming fully open, but I would not be absolutely certain of it. It did not open more than 4 inches. It did not enable me to see what was at the back of the drawer, but it enabled me to see, as I thought, that it was perfectly empty. I did not know the depth of it; I had not been in the house before.

Did you regard the object for which you had come as one of very great importance?—I cannot say then. I had been taken away on a Sunday morning; I cannot say I attached tremendous importance to it; I assumed they had got it, and there was an end of it.

You did not use the word "tremendous"?—You said "very great."

Did you regard this as of great importance?—I did, and looking at it since, I regard it as of greater importance.

There was a feature in connection with the case at the time connected with white arsenic?—Yes. I had not gone into it fully with him then.

And you were there for the express purpose of seeing whether there was white arsenic in the drawer?—One of the purposes, yes. The next day the grave of Mrs. Armstrong was opened, and later in the evening the body was exhumed. Chief Inspector Crutchett and I went that day to Cusop. We went to Mayfield. According to my recollection, we did not go into the room where the bureau

was; we merely went into the outbuildings where one of the police officers was, because Mr. Crutchett wanted to speak to him.

Will you really deny that you went into this very study with Mr. Crutchett?—I could not deny it, but my recollection is very clear that we did not. My own impression is that we walked through the house and spoke to Miss Pearce, who was in the kitchen. We then went into the outhouses and saw Sergeant Worthing and Sergeant William. I am quite clear we never went into that room—as clear as I can be.

Was it your object at that time to give Mr. Crutchett every possible assistance in solving this case?—I did not go to Mayfield for that purpose.

But was that your attitude, one of helpfulness to him?—I cannot say that; my attitude was conducting the defence of Major Armstrong.

Did you say anything to Mr. Crutchett about the white arsenic?—Certainly not.

Or about your attempt to find it in this bureau?—Certainly not.

Did you mention the bureau to him at all?—Certainly not.

On your instructions, may I take it that you believed that somewhere in that house there were 2 ounces of white arsenic in existence?—I believed there was some; I did not know the quantity; about half I believed there was there.

And that, I take it, you never mentioned to Mr. Crutchett?—Certainly not. I was defending Major Armstrong. The file that I have already referred to was in the same room as the bureau, and I am quite certain we did not go into that room and look at the file.

Did you take the file from the fireplace and look at the contents and say, "He told me he had a recipe for weed-killer"?—No. I am quite certain about that. As a matter of fact, I do not think I knew of the recipe for weed-killer at that period.

Did Mr. Crutchett say, "He told us also, but we cannot find it"?—No, absolutely no. Nothing of that sort took place at any time. It is not a question of a mistake in the date; I am absolutely certain I never spoke to Inspector Crutchett about this recipe during the whole period of the trial. I am absolutely certain I did not take down the file when I was in his presence there. I conducted the defence before the justices, and Mr. Davies and Mr. Hird were called by the prosecution at different times. Hird was recalled on the 9th February, and Mr. Davies was recalled on the 3rd February.

So that Hird was recalled on the third day after you had discovered this arsenic in the drawer?—Yes, he was.

Previous to your discovery, do I take it from what you said that you knew or believed that the purchase made at Davies's shop by your client, made from Hird, was of white arsenic?—I did.

Thomas Alfred Matthews

You heard the evidence given before the justices by Hird?—I did.

Is this what he said, "During the last year, on 11th January, he (that is Mr. Armstrong) made a purchase of arsenic from me. He purchased a quarter of a pound. I tinted it with charcoal, and it was wrapped up in two papers; a label with 'Poison' on it was put on the packet." You heard him say that?—Yes.

Did you put any question in cross-examination to Hird as to that?—I did not.

I only want to know why you did not cross-examine Mr. Hird?—Because I did not consider it necessary.

By Mr. Justice Darling—At that time, although he said he tinted the arsenic, you knew he did not?—Those were my instructions.

Cross-examination continued—On the day of his being recalled, that is the 9th February, you had, I understand, just half an hour before actually seen what you believed to be the very parcel of white arsenic?—Quarter of an hour before.

The very parcel of white arsenic that your client had bought?—I did not know, of course, that it was arsenic, but I was pretty confident in my own mind that it was.

By Mr. Justice Darling—It was labelled "Arsenic"?—Yes; I say I was confident, but it has been analysed since then.

Cross-examination continued—At that time, of course, you had in your possession Mr. Armstrong's written statement?—Yes, long before.

And you knew, did you not, that in that statement Mr. Armstrong had said that his purchase was of coloured arsenic?—Yes, I did.

In a word, you refrained from asking Mr. Davies any question in cross-examination about this same matter?—I did.

Had you put some questions to him about the purchase?—I am not clear; it was very short, if it was anything.

It is a page?—I thought there was not much cross-examination of Mr. Davies; yes, I remember there was now.

"I remember vividly the purchase in 1919. Weed-killer was then more expensive than usual. With regard to the transaction on 11th January, 1921, it was my assistant, and he filled up the poison book. It was a cash transaction. The cash would go straight in the till." I think you have heard the assistant say that Mr. Davies was actually in the shop at the time it took place?—I think Mr. Davies gave evidence before his assistant.

But Mr. Davies was recalled, was he not?—Yes, he was recalled afterwards.

At that time, when Mr. Davies was recalled, you were aware that the assistant said that Mr. Davies was in the shop when the sale took place, and that Mr. Davies had reminded him to be

sure to colour it?—I do not recollect that I knew it. I remember that statement quite distinctly at some time or other.

In the face of that, did you allow Davies to go out of the box without challenging that?—Yes, apparently I did not do it.

I would like to ask you about the discovery on the 9th February. Between your first visit to Mayfield on this search, that was the 2nd January, and the 9th February, had any people from your office been to Mayfield to your knowledge?—Yes, two or three. I had about sixteen clerks at that time. There were two who were particularly assisting me in this case; Mr. Chivers was one and Mr. Hawkrigg was the other. Mr. Smith also was there several times, because he went to arrange about the removal of the family. I also know that Mr. Chivers went once or twice with Inspector Crutchett. Mr. Hawkrigg went on one or two occasions. On one occasion particularly I sent him up for a specific reason, and the other occasion was when he went up to get some clothes, or went up with Mrs. Price or Miss Pearce to get some things, because I had the key. Miss Pearce left on the 6th January, on the Friday following the day of arrest. I have already stated that on the 1st January Miss Pearce was present when the bureau was searched; indeed, it was she who pulled out the drawer. I did not ask her any questions about that before the magistrates.

Have you noticed that no question was put by my friend to Miss Pearce as to that?—I do not know whether he knew that she was there.

Have you observed that any question was put?—I do not think so, and I have followed most of his cross-examination. On the 9th February I went to Mayfield for the purpose of inspecting the recipe which my clerk had previously taken a copy of at my request. Mr. Armstrong had a clerk called Phillips, who, I understand, had been up to fetch clothes for Major Armstrong. He, of course, knew nothing about the statement. I had not made up my mind by the date I made the discovery that when I went to Mayfield I would have another look at this drawer. The reason why I looked a second time was simply to demonstrate to my managing clerk where it was alleged to have been.

By Mr. Justice Darling—When did you first suggest in any proceedings that Mrs. Armstrong committed suicide?—I have not suggested it at all.

You do suggest it here?—Yes.

It never was suggested until here at the Assizes?—No, my lord.

Cross-examination continued—At the first visit to Mayfield you went there with a fair expectation of finding the packet of arsenic in that drawer?—I cannot say that. I knew two detective officers and a police deputy chief constable had been there, and I did not expect to find it for a moment.

Then I suppose you practically felt certain it was not there

when you went there on the second occasion?—I did, quite. I pulled out the drawer to about the same extent as it had been pulled on the first occasion by Miss Pearce, and I saw nothing.

But this time you persevered?—I did.

It must have been a profound surprise when you found there was something sticking?—That does not adequately express it.

My language, I know, is rather poor, but I put it as strong as I can; it must have been a very great surprise?—It was, tremendous.

Now, there is no doubt you are in possession of a most important piece of evidence?—I was, you mean, yes.

You had believed in the existence of this arsenic right away from the 1st January?—I did.

And now you had actually got the thing itself?—On the 9th February.

What I am going to say does not depend much upon dates, because I do not know what the dates were, but I would like this one thing about the date—when was the last time Mr. Crutchett was in the box?—You reminded me just now—17th February.

So that on that date your information and belief had received absolute confirmation?—Yes.

Let us see what you said to Mr. Crutchett in cross-examination?—I do not think I said anything; I may have, not on the 17th.

I will do you every justice. On the 17th Mr. Crutchett was recalled, and you had the opportunity of cross-examining him. He said, "I identify exhibit No. 32." That is the little packet that was found on Mr. Armstrong?—He did.

"The outside envelope is my own, into which I placed the white packet which is now in it. When found it was not folded the same way, and there was no elastic band." Then he identified exhibit No. 33. That was the charcoal-coloured powder "which I found in the cupboard on the left of the fireplace in the library," and you put no question?—No.

At the previous hearing, when Mr. Crutchett was put before you, you cross-examined him?—I did.

In answer to your question, is this the statement that he made, and which appears on the depositions—"There was not the slightest obstacle in the way of my search by either Mr. Armstrong or the clerks. They gave me every information and assistance. I had every facility for searching the office, and every assistance from the clerks up to Monday evening. After finishing at the office on Saturday I went at once to Mayfield. Statements were taken from Miss Pearce and Mrs. Price. A thorough and systematic search was made of the whole house. Mrs. Price and Miss Pearce gave me every facility. Armstrong offered to show me where certain articles were if he had an opportunity of going to the house. The searching of the house was practically done on Saturday night.

Since Mr. Matthews was instructed I have had every facility for searching the house or office. I was informed before the house was locked up and the inmates removed what was being done, and at the same time I was informed that every facility for searching would be given me, and that I should have reasonable opportunity for obtaining information from Mr. Armstrong's staff at his house and office, but that offer was withdrawn yesterday."

Mr. Justice Darling—Are those answers in cross-examination?

Mr. Vachell—Yes.

Mr. Justice Darling—Then every one of those such as "I received every assistance" was a leading question?

Mr. Vachell—That is so, my lord.

Cross-examination continued—Mr. Matthews, knowing you as one does, it is inconceivable that you could have put those questions and obtained those answers unless you believed that they would be assented to by Mr. Crutchett?—Yes.

That being so, and remembering the knowledge that you thought you had, do you not think there is some little mistake about the discovery of this arsenic in that drawer?—I do not. I am not quite sure what you mean. Do you mean that I did not discover it?

No, the difficulty in my mind, knowing you as a very honourable and upright gentleman, is how you could have really made those suggestions of full assistance to Mr. Crutchett if all the time you knew that there had been concealed from him one of the most vital facts in the case?—That is before the 9th; I did not know at that time.

By Mr. Justice Darling—But you knew then that your client, the defendant, had told you that in that drawer in the bureau there was some white arsenic?—I did.

Yet you put these questions?—I did.

Re-examined by Sir H. Curtis Bennett—Let us see what the questions are. "There was not the slightest obstacle placed in the way of my search by either Mr. Armstrong or the clerks." Where did that search refer to?—To the office.

"They gave me every information and assistance." Is that still referring to the office?—Yes.

"I had every facility for searching the office, and every assistance from the clerks up to Monday evening." Still the office?—Yes.

"After finishing at the office on Saturday I went at once to Mayfield. Statements were taken by me from Miss Pearce and Mrs. Price. A thorough and systematic search was made of the whole house. Mrs. Price and Miss Pearce gave me every facility." Every facility to search. Is that the question?—That is so.

"Armstrong offered to show me where certain articles were if he had an opportunity of going to the house. The searching

of the house was practically done on the Saturday night." Is that right?—That is so.

"Since Mr. Matthews was instructed I had every facility for searching the house or office." Is that true?—That was so. I wrote a letter to that effect before I locked the house up.

Those were the questions that you put to him?—Yes.

You were asked whether anybody was cross-examined or any defence of suicide was put forward at the Police Court?—I was. I was going to take an opportunity of explaining that if my lord would allow me. There were certain questions put about the delusions.

And to Miss Pearce about suicide?—Yes; some of these were elicited by my learned friend, Mr. Micklethwait. That was present to my mind when his lordship asked me.

By the time when the expert doctors were called, was it quite obvious to everybody that this case was a case that would have to be tried before a judge and a jury?—Yes.

That being so, you did not cross-examine any of the expert witnesses?—No. I did not ask a single question.

Because it was desired the committal should take place as early as possible, so that my lord could fix a date for the hearing of the case?—Yes, that is what was in my mind when I mentioned it a moment ago.

I do not quite understand what the suggestion is against you. My friend says we all know you as a very honourable and upright man. With regard to the clerks who were in your employ, Mr. Chivers, you told us, you had a very high character of him?—Yes.

And Mr. Hawkrigg; what do you say about him?—He was with me as a boy, left me for a short time, and then joined up. After he came from the Army he returned, and has been with me ever since. He has been with me about seven years. He is a young man of the highest character.

And Mr. Smith, had he anything to do with this matter except with the family and children?—At that time nothing on my account. At any rate, he is here and can be called. He is a man of high character also; he has been with me for many years. The other man whose name was suggested was Mr. Phillips, Major Armstrong's clerk. He also is available as a witness. Outside my clerks there were no others who went to this house prior to 9th February.

Henry Reginald Chivers, examined by Sir H. Curtis Bennett—I am managing clerk to Mr. Matthews. I have been with him since I was demobilised in 1918. I have assisted him in the conduct of the defence of Major Armstrong. On the 9th February I was present at Mayfield with Mr. Matthews, and I saw him go to

the little drawer at the bottom of the bureau, in the middle. I saw him pull the drawer partially open first of all, and it then stuck; he put his left hand inside the drawer and a moment or two afterwards pulled out a blue paper packet which contained a packet of arsenic, and which has been produced. It was opened in my presence. It was afterwards replaced in the same position as it had been when Mr. Matthews pulled it out. On the 14th February I was present when Dr. Ainslie was there, and in Dr. Ainslie's presence the packet was again taken out and sealed up in a tin.

Dr. Frederick Sherman Toogood, examined by Mr. Bosanquet—I am an M.D. of London. I am a lieutenant-colonel in the R.A.M.C., and I hold a military O.B.E. I have had twenty-five years' experience as medical superintendent of Lewisham Hospital, and advisory medical officer in lunacy for the Borough of Lewisham. I am in practice at Dr. Johnson's Buildings, Temple, and I am advisory medical officer of various insurance companies. I am constantly engaged in investigating cases of accidents and industrial diseases, and I have made over 7000 post-mortem examinations. I have examined numerous cases for life insurance, and also for the Treasury as well. I am a pathologist to the London County Council. I have had experience of cases of arsenical poisoning. I have seen one fatal case of acute poisoning, one case of acute poisoning which recovered, and I have seen several cases of sub-acute poisoning, and also of chronic poisoning. I have seen many cases of poisoning from other causes. I have been in Court and have heard the evidence which has been given by the witnesses for the prosecution, including a specialist. I also heard Major Armstrong's examination-in-chief yesterday. I have had an opportunity of reading through the depositions and reports in this case.

First of all, with regard to the period between 1915 and August, 1920, in my opinion Mrs. Armstrong was suffering from auto-intoxication caused by chronic indigestion, associated with the presence of gallstones. She also suffered from neuritis and rheumatoid arthritis. Indigestion itself is a very common cause of auto-intoxication; the part of the anatomy where the poison is elaborated is in the large bowel. She also had albuminuria at times, and there was evidence of a dilated heart with a murmur. Both these conditions are frequent accompaniments of auto-intoxication. The presence of gallstones suggest that the digestive processes and the subsequent dealing with the digested material were faulty; the natural processes were not proceeding normally. I have heard the description which has been given of the neuritis from which Mrs. Armstrong suffered during those years up to August, 1920. I should describe it as

an effect of auto-intoxication. It is a neuritis which existed in a number of places, but which did not come under the professional term usually known as multiple neuritis. There is a definite clinical condition known as multiple neuritis, and that condition was not present, at any rate in its entirety. There may have been the beginnings of it, but it was not present in its entirety before August, 1920. Coming to 1920, the symptoms described indicate that she was obviously suffering from melancholia, which is a form of unsoundness of mind. The condition in which she went away to the asylum was, I think, obviously a condition known as acute melancholia, in which there is an acute physical disturbance. There is increased rapidity of the heart, there is an increase of temperature, there is often congestion of the surfaces of the lips and of the fingers, there is frequent vomiting, and, at any rate, in this particular case, this disturbance would be particularly likely to result in albumen in the urine. Prior to August, 1920, there were no symptoms pointing to arsenical poisoning, but prior to her removal to Barnwood there were symptoms which were consistent with arsenical poisoning. They were also consistent with other causes. It is the routine practice of institutions to give the nurse a bowl to be taken on the journey to the institution to prepare for any vomiting. Retention of urine is very common in melancholia, and it is one of the things which is always tested before a patient is sent from one institution to another. In this case I should say it was retention of urine. Suppression of urine is a very grave matter. As regards the loss of power in her arms and legs after her admission to the asylum, I believe that was a functional weakness grafted on to the previous neuritis. I have heard in the evidence that in the beginning of October she was given doses of arsenic as a tonic. Assuming that she had already been given arsenic, the effect of that would be to increase any effect upon the nervous system.

With regard to the evidence which you heard given, that she improved after this tonic was given, what do you say?—I think that she was not suffering from any arsenical effect upon the nervous system. I have heard the report that was made by Dr. Soutar, after consultation with Dr. Townsend. In my opinion, that report pointed to the condition being functional. I say that because of the symptoms which were lacking when Dr. Soutar and Dr. Townsend examined her. A person suffering from arsenical neuritis in any degree is paralysed in the hands and the arms and legs, and he is unable to change his posture. I heard the evidence that in this case Mrs. Armstrong was able to change her posture. That is in Dr. Soutar's report. There were two other symptoms in the report which also confirmed that view: one was that there was no delayed contraction of the muscles, and the other was that there were no fibrillary tremors. Delayed contraction means that, when

the patient is told, say, to move the foot or the finger, there is a long interval between the patient getting the instruction to do it and the action. An ordinary person, of course, when he is told to move his finger, moves it quickly, but a patient with peripheral neuritis does not. There is a material interval between receiving the order and carrying it out. With fibrillary tremors, when the muscle contracts, one can see the muscle trembling. In my opinion, Mrs. Armstrong had not peripheral neuritis in the asylum. I heard Nurse Kinsey's evidence with regard to her being called in to help her to dress and undress. In my opinion, that indicated that she was still suffering from functional weakness of the limbs. Dr. Hincks examined her on the 11th February, and I have heard the report. I attribute the state she was then in still to functional neuritis or functional weakness. High-steppage gait is produced by a patient suffering from weakness of the muscles of the front of the leg, which is often present in functional diseases. Absence of knee jerks is also often found in functional diseases. Having heard the evidence, I say there was no evidence consistent only with arsenical poisoning up till the 16th February. Having heard the whole of the evidence in regard to the course of her illness, and also in regard to the post-mortem, I say that in all probability the cause of her death was arsenical poisoning caused by arsenic taken about the 16th February, but none before. It must have been a large dose.

By Mr. Justice Darling—By a large dose I mean anything over 10 grains. It may have been less, but at any rate it was a large dose. I should call 10 grains a large dose, and I should also call 7 or 6 grains a large dose. I think more than 6 grains must have been taken in this case. I have not the remotest idea how many grains must have been taken, because vomiting upsets the whole calculations. I think that more than 6 grains was taken in this case, because of the amount that was found after death.

Examination continued—Supposing she had taken a large dose on the 16th, and having heard the symptoms of the illness from which she suffered, how do you account for the symptoms; what in your view happened?—In my view a large portion of the arsenic became encapsuled.

Is that encysted?—It gets covered with mucus and becomes attached to the wall of the stomach. It may remain in that position, or at any rate a part of it—perhaps the whole—for some days, then a portion will become detached and dissolve and get into the intestine. The symptoms that we observed were the same as I would expect in a case of this kind. I myself have had experience of a case where a patient took a large dose. In that case the patient lived seven days. I heard the evidence with regard to what was found at the post-mortem, and I have heard about the amount that was found in the various portions of the intestines.

I find from Mr. Webster's report that in the walls of the stomach there were 2.5 milligrams; the amount in the stomach contents was 2 milligrams; the amount in the jejunum, which is the second part of the small intestine—there is no mention made of the first part of the small intestine in this report—was 1.16; and on referring to the jar No 3 in Mr. Webster's report I see that the jejunum and contents weighed half an ounce. The jejunum is between 6 and 7 feet long. Then the ileum contained 9.1 milligrams. It is in the same bottle. A portion of the ileum and its contents was 2 ounces.

Having regard to this report, what deduction do you draw from what you found?—I should like to have it explained to me how it was the jejunum and the ileum were apparently in the same bottle, and yet some inference has been drawn from it; those were obviously in the same bottle.

Sir H. Curtis Bennett—Yes, they were.

The Attorney-General—I do not think there is any doubt on that. If your lordship looks at the report it gives the various jars. No. 3 is labelled "A portion of the jejunum and contents, a smaller piece, and a portion of the ileum and contents, a larger piece." They are not liquid, they are pieces in substance.

The Witness—But their contents would be liquid, and if they were together, and close together, I say that no inference can be drawn as to the amount which is contained in one or is contained in the other. Not only that, but I also notice that one weighed half an ounce and the other weighed 2 ounces.

Examination continued—You have heard the inferences that have been drawn from this?—Unless some explanation is forthcoming, I say those inferences are absolutely valueless.

Some question was asked as to the possibility of migration after death?—Migration after death is a well-known thing which occurs in cases of arsenical or other poisoning, and it is impossible to form any correct opinion from the findings of a post-mortem made several months after death as to what was the condition at the time of death—that is to say, any correct deductions.

Just explain what you mean by migration?—To put a homely instance, migration is the process which takes place when you put a piece of meat into salt. The salt gets in the outside and gets right through the meat; exactly the same thing happens when arsenic is in the inside of a body. It travels; it migrates or creeps.

Supposing that this large dose was given on the 16th February, would that, in your opinion, account for what was found at the post-mortem?—Quite.

Would it or would it not also account for the symptoms which were shown during life?—Yes. I have heard the evidence with regard to Mr. Martin. The symptoms which I have heard described are consistent either with an attack of acute indigestion

or gastro-intestinal influenza, or any irritant poison, which would include arsenic. Assuming a fatal dose of arsenic was taken at or about half-past five in the afternoon, I think it would be exceedingly unlikely that the person would be likely to be able to eat dinner at half-past seven. The vomiting would be delayed, of course, for some hours, particularly if it is taken on a full stomach. But there would be some nausea, some feeling of sickness, some time before the vomiting.

By Mr. Justice Darling—Is there anything in what Mr. Martin describes from which you could say he had not taken arsenic at tea time?—There is a symptom which is decidedly against it. That is the fact that he returned to work in, I think, four or five days, and I think a person who had taken a fatal dose of arsenic would be exceedingly unlikely to return to work after so short an interval, the constitutional disturbance would be too great. I think it would take at least a fortnight before he got over it sufficiently to return to work.

Examination continued—I have heard that the vomit was offensive at the beginning. There is nothing in an arsenical vomit to make it offensive, rather the reverse. I have also heard that a small quantity, 1/33rd of a grain, was found in Mr. Martin's urine in a sample taken on the 30th October. I also heard the evidence in regard to what he was given in the way of medicine. First of all, with regard to the bismuth, samples of bismuth may contain a considerable amount of arsenic. By a considerable amount I mean there is a case on record where a medicinal bismuth contained .44 per cent. of ordinary white arsenic. It was very bad bismuth. It is one of the cases quoted in Witthaus. During the war there was impure bismuth. A good deal of it was imported from America. As to how it got on to the market I cannot say, or whether it actually got on the market I do not know. Before the war it used to come from Germany. The same remarks apply to sulphate of magnesia, but it does not contain nearly so much. As regards the way in which the sample was taken, I should say that the sample was not taken in a scientific way at all. In the first place, I heard that the bottle previously contained peroxide of hydrogen. Arsenic is a constant impurity of peroxide of hydrogen. Assuming that there was any arsenic in the bottle, the washing that I have heard described would not necessarily remove it. It is conceivable that it might under certain conditions. The proper way would be to go to a laboratory and get an arsenic-free bottle. If that were impossible, then the bottle should be washed with arsenic-free acid. It ought to be then thoroughly washed out with distilled water and tested for arsenic. It should be taken by the doctor to the patient, and the urine should be passed in his presence. The washing water should be sent to the analyst at the same time as the sample of urine was

taken, in order to see that there was no arsenic in the water itself. Arsenic powder is a light substance. Of course, it can adhere to a bottle more easily. The cork, I understand, was a new cork, but it should have been taken from a fresh packet, and not a cork that was lying about the shop. There would be no arsenic in the cork; there is only the question of arsenic getting on to the cork, the arsenic being manipulated in the shop. The same remark would apply to the bottle.

The Court adjourned.

Ninth Day—Wednesday, 12th April, 1922.

Dr. Frederick Sherman Toogood, recalled, cross-examined by the Attorney-General—The two cases of acute poisoning which I referred to, one of which recovered and the other which was fatal, both occurred in 1899. As regards the case in which the patient lived for seven days, that was not within my experience; that was a case from a book. I have known of death following chronic arsenical poisoning. I refer to the beer epidemic in 1901, I think it was; there were several cases then, and some of them died. It was, roughly speaking, about twenty years ago. I am not what might be called an analytical chemist, but I have made qualitative analyses during the last twenty years to find arsenic. I have not made a quantitative analysis; I have merely tested for the presence of arsenic; I have not made any examination to find the quantities of arsenic. I should emphatically place Sir William Willcox as one of the greatest authorities in the kingdom on arsenical poisoning; he is the highest authority I know throughout the whole of the United Kingdom. As regards Dr. Spilsbury, he is a man who has had unrivalled experience in post-mortem examinations; there is no one in the United Kingdom who I would suggest has a greater experience than Dr. Spilsbury. Mr. Webster is a man who holds a very high reputation as an analytical chemist. I can think of no one better qualified than Mr. Webster, on whom I would rely for an analysis in the positions I hold. I have already said that between 1915 and August, 1920, in my opinion Mrs. Armstrong was suffering from auto-intoxication caused by chronic indigestion, and it was associated with the presence of gallstones, and she suffered from neuritis and rheumatoid arthritis. One does not always find permanent and increasing swelling of the joints in rheumatoid arthritis. In a well-marked case there is abundant evidence of the joints getting stiffer and stiffer, and there is a bony swelling of the joints. Gradually the patient becomes crippled with it.

What symptoms are you referring to in Mrs Armstrong when you say that she suffered from rheumatoid anthritis?—From Dr. Hincks's description of the attack she had in the wrist. Dr. Hincks described it, I believe, as chronic rheumatism. As regards the muscular rheumatism in the right arm which was put in a sling, I believe there was a swelling of the wrist, and it passed away. I heard that in October, 1919, Mrs. Armstrong was once more able to play the piano.

Putting those facts quite fairly, do you think that the symptoms of Mrs. Armstrong were definitely symptoms of rheumatoid arthritis?—Yes, I think that attack in the wrist was an attack of

rheumatoid arthritis; I do not see what else it could have been. I do not think it could have been muscular rheumatism in the wrist if there was any swelling. There are actually no muscles in the wrist. I think the fact that one has a swelling that passes away definitely shows that there is rheumatoid arthritis in the joint. One may recover from rheumatoid arthritis to this extent, that it may not come on again, but I suppose theoretically each attack would leave a little damage, but I doubt if it could be discovered without opening the joint.

Do you not think that Dr. Hincks would have said it was rheumatoid arthritis if it were so?—I do not know; I am afraid I cannot answer that question.

He says, "I treated her for rheumatism"?—But that would be the same thing as rheumatoid arthritis. It is a commoner term than rheumatoid arthritis. Everybody who has so-called chronic rheumatism of the joints has rheumatoid arthritis; the terms are used more or less interchangeably. By chronic rheumatism I mean chronic as distinguished from acute rheumatism, acute rheumatism being rheumatic fever.

We have got one case in the summer of 1919, when she had a swelling which passed away. Does that, in your opinion, justify the word "chronic"?—Yes, because it was not acute.

All rheumatism, then, that is not rheumatic fever and not acute is rheumatoid arthritis?—It must be rheumatoid arthritis.

By Mr. Justice Darling—Arthritis means inflammation of the joints.

Cross-examination continued—Does anybody who at one time for a month or two had rheumatism have arthritis?—Rheumatoid arthritis. As regards the gallstones, I would not say these are very commonly found in a number of people; they are not infrequent in post-mortems, but I would not say that they are commonly found.

Unless there is some infection of the gall bladder, is there really any sinister interpretation to be placed on their presence?—Yes, they are a source of considerable trouble by reason of their mechanical presence.

That is not what I am putting to you. If the gall bladder is not infected, is there any sinister interpretation to be placed on the presence of gallstones?—No, they would not cause any constitutional symptoms; the symptoms would be local and not constitutional. I quite agree that in some cases gallstones cause no symptoms directly referable to the gall bladder; the gall bladder will support the presence of large numbers of gallstones for an indefinite period of time. I would not cavil at the statement that in cases where post-mortem examinations are made on women over sixty years of age 25 per cent. are found to have gallstones. Indigestion is a very common complaint. In my opinion, every-

body who has chronic indigestion is suffering to a certain extent from auto-intoxication.

Are we to say that everybody who has indigestion is suffering from some auto-intoxication?—Yes, I should say that, but I should qualify it by saying that in the vast majority of cases it would cause no signs or symptoms at all. When I referred to neuritis I was speaking of scattered neuritis—a nervous pain here, another there, and another in some other direction. Multiple and peripheral neuritis are the same thing. As a rule you have one cause which you can pick out, one central cause which operates through the system to the distant parts of the body. I have heard nothing to lead me to suppose that Mrs. Armstrong had peripheral neuritis before August, 1920. If there was rheumatoid arthritis you would find indications of it post-mortem in the body if the joints were opened. I cannot agree that Dr. Spilsbury would have found signs of rheumatoid arthritis if it had been present, because it is not the custom in every case to open joints, and, besides that, if this were a solitary attack of rheumatoid arthritis, I doubt very much if there would be anything very noticeable after the body had been buried for ten months.

Because this rheumatoid arthritis would have cleared away?—I cannot say there would have been no microscopic effects, but I doubt very much whether one attack of rheumatoid arthritis, unless it lasted for a very long time, would cause a great amount of change in the joints. Taking it that the rheumatism started in May, 1919, and in June she had her right arm in a sling, and by August it had cleared away, I should have expected to find signs in the body on a post-mortem examination. The auto-intoxication was a cause of the rheumatism. The cause of the auto-intoxication was a morbid process going on in the large bowel, a putrefactive change due to the presence of abnormal micro-organisms. This process going on in the large bowel would not leave traces after death. Constipation and probably flatulence would be symptoms of auto-intoxication in the large bowel. I was in Court during the whole time Dr. Willcox, Dr. Spilsbury, and Dr. Hincks were being examined. I do not remember any questions being put to them on the question of rheumatoid arthritis. I do not think I suggested any question to Sir Henry in cross-examination. I have helped him to the best of my poor ability both before as well as in Court. Dr. Hincks stated that he examined her urine and found albumen shortly before she went away to the asylum, on 18th August. That evidently had cleared up and was all gone by the 28th August, after she went into the asylum. I am not sure that I can recall that the urine was examined after that. Certainly it was not examined again at the asylum, because Dr. Townsend said so. Whether Dr. Hincks said so I am not clear. The albumen in the urine continued for three or four days after her entrance into the asylum, and then it cleared away. That points

to the fact that it was due to a transient cause. It might have been due to poison administered before the 18th. Arsenic does not always produce albuminuria in the urine.

Suppose arsenic administered before the 18th August, 1920, would arsenic so administered have an effect upon the kidneys?—Yes.

Would not the effect upon the kidneys be shown by the presence of albumen in the urine?—Yes, it might.

And if the effect of arsenic upon the kidneys passed away, would you expect to find the albumen pass away?—Yes, if the whole effect passed away. I should expect the arsenic to be operative for several weeks, because the cause of the albuminuria, if it is produced by arsenic, is a fatty degeneration of the cells of the kidneys, and it also causes an inflammatory condition; that must take some appreciable time to clear up. It would depend, of course, very much upon the dose and the period of time the arsenic had been administered. If arsenic were administered for a long time one would expect to get more changes. I should expect all traces of arsenic to be gone from the body, except in the hair and nails, in about three or four weeks. I do not think my answer differs very much from Dr. Spilsbury's and Dr. Willcox's evidence when they said it would be got rid of in two or three weeks.

If the albuminuria or the albumen found in August was due to auto-intoxication, why did it clear away in four days after admission to the asylum?—Because that is the characteristic of albuminuria from auto-intoxication. Auto-intoxication is one of the commonest causes of transient albuminuria which will come and go.

What happens to the auto-intoxication, whether the albumen comes or goes. Does the auto-intoxication go on for ever?—The auto-intoxication generally goes on for a very, very long time; but the reason why the albumen appears, then disappears, is because something or other has temporarily damaged the kidneys.

Taking the fact that albumen appeared on the 18th August, and disappeared on the 28th August, are you able to say that that was definitely caused by auto-intoxication, or may it have been also caused by doses of arsenic?—Taking the whole picture, I have no doubt that it was caused by auto-intoxication.

I am not asking you that. I am asking you to take your mind to August, 1920, and confine yourself to this, that you find albumen in the urine on the 18th August which clears away on the 28th. Is not that consistent with a dose of arsenic just as much as with auto-intoxication?—Yes, taken by itself.

We know that in September of 1920, while in the asylum, Mrs. Armstrong developed peripheral neuritis. We have had that from the doctors. Would not that be a sequence of arsenical poisoning?—Yes, and of other things.

Let me put it in this way, to be fair to you. If she had large doses of arsenic before the 18th August, and then was admitted to the asylum, would you not, if she had had that arsenic, have expected the peripheral neuritis to develop?—Yes, I think it very likely would have developed. I admitted yesterday that when she was taken into the asylum there were signs which were consistent with arsenical poisoning. The fact that she developed the peripheral neuritis in September would be another symptom emphasising arsenical poisoning, provided the peripheral neuritis gave all the signs of arsenical peripheral neuritis. The dilated heart is also a symptom consistent with arsenical poisoning.

With all these symptoms, the heart, the albumen which cleared away, the subsequent peripheral neuritis, why do you prefer auto-intoxication to arsenical poisoning?—I prefer auto-intoxication, and the condition of acute melancholia. I never heard of arsenical poisoning emphasising melancholia. The melancholia might be due to change of life as well as to auto-intoxication. You sometimes find melancholia accompanying change of life. Assuming that it was a case of auto-intoxication, the tonic that she was given, iron and a trifling dose of arsenic, would be a very good tonic to give her. All traces of that arsenic so given as an ingredient of the tonic would pass away in the course of two or three weeks after it had been taken, except in the hair and nails. I should think, had the paralysis been due to an arsenical origin, this tonic with the arsenic in it would have retarded the recovery. Her progress, on the contrary, was practically continuous towards betterment. Fibrillary tremors during the contraction of the muscle are symptoms of multiple neuritis. It is a symptom of spinal cord disease, also of multiple neuritis.

I have just looked, and I find in Osler and Witthaus and Dixon Mann—all books of great authority—there is no reference made to fibrillary tremors as a symptom of multiple neuritis?—I know it as a result of my experience. I should say that there are no books of greater authority than Osler. I have heard what has been described as high-steppage gait after she came out of the asylum. That is not typical of arsenical neuritis; it is a constant accompaniment of peripheral neuritis. It is also constantly present in arsenical neuritis. I agree with Sir William Osler when he says, in his "Principles and Practice of Medicine," "Arsenical paralysis has the same characteristics as lead palsy, but the legs are more affected than the arms, particularly in the extensors and peroneal group, so that the patient has the characteristic high-steppage gait of peripheral neuritis."

Am I right in saying this high-steppage gait is a characteristic of arsenical peripheral neuritis?—It is a characteristic symptom of that. It is not confined to that. Arsenical peripheral neuritis would, of course, produce that gait, so would other things.

Dr Frederick S. Toogood

I am not talking about other things, I am confining myself to a case where you have got arsenical neuritis. In a case of arsenical neuritis is not the high-steppage gait characteristic?—Yes.

My friend put the question of high-steppage gait to you. You said it is often present in functional disease. "*Q*. The absence of the knee jerks.—*A*. That is often absent in functional disease. *Q*. Having heard the evidence, do you say yes or no, was there any evidence consistent only with arsenical poisoning up to 16th February?—*A*. None." I want to ask you about this, the knee jerks in the case of functional disease, you say that is often absent in functional disease?—Yes.

In a case where the paralysis is a functional disturbance are the knee jerks increased or normal?—They are certainly not increased; they may be normal; they may be very difficult to elicit.

Let me see if I have got the point quite clearly.* You would regard this condition of Mrs. Armstrong as functional because of the absence of knee jerks?—No.

I have got your answer. The absence of knee jerks—you say that is often absent in functional disease. I thought you were speaking of Mrs. Armstrong's case? —I am, but that was Dr. Hincks's observation. He found the knee jerks absent.

Would this absence of knee jerks point to functional disease? —No, it would not. The fact that there were no knee jerks would point away from functional disease or disturbance. I would not expect to find the knee jerks increased where it was functional; they would be either normal or extraordinarily difficult to get.

I have got what Sir William Osler says about that—"In functional disease the reflexes are usually increased, deep reflexes especially never being absent"?—Surely that is not referring to functional paralysis.

Yes. Let me give you two passages?—Of course there are functional diseases in which they are increased, but not functional paralysis.

Usually in trying to find whether it is functional or not you would look at the reflexes, would you not?—Yes.

If it was functional you would expect to find them increased, would you not?—No.

Let me read what Sir William Osler says—"Reflexes may be increased, though the knee jerk is often normal." Do you agree with that?—Yes.

Then the fact that there were no knee jerks, the absence of knee jerks, points away from the condition being functional, does

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* In justice to Dr. Toogood it should be observed, with regard to this passage in the cross-examination dealing with reflexes, that the Attorney-General appeared to desire answers upon functional disease in general, while Dr. Toogood was answering on the case of Mrs. Armstrong in particular.—Ed.

it not?—Yes; I have already said that it does, although I qualified it by saying sometimes they are extremely difficult to elicit.

You see absence of knee jerks was put to you as being an indication, and you said that is often absent in functional disease; but, as I understand what you say now, you would expect the knee jerks in functional disease to be present or increased?—I expect it to be present, but I should not expect it to be increased in its functional condition. Of course, there are functional diseases in which they are very much increased.

The fact that they are there is a helpful symptom on which to diagnose that the disease is functional?—Yes. In a case of poison like arsenic I would expect vomiting to come on before diarrhœa; but there, again, symptoms of arsenical poisoning are extremely variable. I should, however, expect vomiting first and diarrhœa afterwards. In the case of arsenical poisoning the temperature, as a rule, is not much affected. The tendency would be to an increase, if anything. If in the case of Mr. Martin the symptoms had been vomiting first, diarrhœa afterwards, temperature giving no particular assistance, and arsenic found in the urine, I would certainly think these symptoms indicated arsenical poisoning, if you could rely upon the arsenic having been passed in the urine.

What do you mean by having said in this case you attach some importance to the fact that the urine was not passed in the presence of the doctor?—Because it is not a scientific test. I do not mean that if it has been passed in the presence of the doctor there would have been no arsenic in it. I have had no cases in my own experience of encapsulation of arsenic which delayed these symptoms. I remember the question was put to Dr. Spilsbury and Dr. Willcox, and they were asked if they in their experience had known of encapsulation of arsenic, and they answered they never had experience of it. I said I should not have expected anybody who had taken a dose of arsenic at 5.30 to have eaten a dinner, or at any rate a good dinner, at 7.30.

Did you observe in the evidence that he left Mayfield at 6.30, got home at seven, and complained of nausea?—I should have taken that as an additional reason why he would not have eaten any dinner.

At the urgent solicitation of his wife he ate some dinner, although he was not inclined for it?—Yes.

I suppose if any encapsulation ever took place it might have occurred in the case of Mr. Martin and delayed the symptoms?—I do not see any evidence of encapsulation there.

Supposing he had taken it with the arsenic enclosed in food, took it in some scone or bread and butter, it might have been for that purpose encysted or encapsuled in the food he took?—No, it does not become encapsuled in the food; it becomes encapsuled on the coating of the stomach.

By Mr. Justice Darling—Why should not the arsenic become encapsuled on the coating of Mr. Martin's stomach?—I do not see why it should not. I do not see any evidence that it did.

Where is the evidence that it did in the case of Mrs. Armstrong—not that it might?—The long-continued illness.

Cross-examination continued—I will pass to the last matter—migration. The liver is enclosed, is it not, in what I might call a tough protective tissue called the capsule?—Yes.

That encases the liver, does it not?—Yes.

Perhaps it is not in composition very different from the bladder?—It has a membrane round it. That membrane would not prevent the migration of the arsenic or anything else from the liver, because the process known as osmosis goes on, by which the membrane takes up fluid one side and passes it out of the other. I do not suggest that it did in this case; I do not suggest that any material quantity of the arsenic passed from the liver, because there was such a large amount found in there that there was not room for it to hold much more. In the case of the intestines they are encased in the peritoneum, and the same remark I made about osmosis would apply to that.

That depends on whether or not, first of all, the arsenic has, so to speak, percolated through the walls of the bowel into the peritoneum, and then through the walls of the peritoneum?—Yes, of course presuming the arsenic was in solution. This osmosis only goes on where there are liquids on each side of the membrane.

Therefore, unless you have a case where on the outer side of the bowel and on the outer side of the peritoneum there was a liquid, this migration would not take place?—No, osmosis would not—the oozing conceivably could. Osmosis is a particular form of diffusion. I do not remember Dr. Spilsbury saying that the contents of the abdomen in this case were not liquid.

By Mr. Justice Darling—If he did, it would make all the difference?—It would make all the difference as far as osmosis, but it would not make all the difference as regards the oozing.

Cross-examination continued—I agree that on this matter Dr. Spilsbury is a past master of post-mortem cases, and if anybody knows anything about oozing and osmosis Dr. Spilsbury would. As regards the parts of the smaller intestine, the jejunum and the ileum, they are two continuous parts, and the jejunum passes into the ileum. I heard it stated that the walls of the bowels were still intact.

Therefore, taking them as pipes, whatever passes out of the stomach in due course passes down the pipe of the jejunum and so down into the continuous pipe called the ileum?—Yes. It then travels down in the ordinary way to the cæcum. I heard Dr. Webster state that the jejunum had 1.6 milligrams, the ileum 9.1, and the cæcum 37.6. Evidently the arsenic was travelling as one would expect it to do, passing along through the jejunum into the

ileum and down into the cæcum. It had passed through the jejunum down to the ileum into the cæcum and collected there. The fact that the larger quantity was found in the cæcum points to the fact that the arsenic was passing down in the ordinary course.

Re-examined by Sir H. Curtis Bennett—Although I cannot aspire to the eminence of the doctors that the Crown have been able to call, I have had thirty-six years' experience as a doctor, and during that time I have conducted over seven thousand post-mortems myself. During the whole of that time I have had constant practice of medicine and also surgery. Like many other doctors, I am a member of the bar, but not a practising member. It is not possible to get gallstones if there is normal bile and a normal state of the gall bladder. If you do get gallstones, it means that there is some disease going on somewhere. As I have already stated, two signs of auto-intoxication being in progress are constipation and flatulence. The pills Mrs. Armstrong was in the habit of taking were aperient pills. They were taken for constipation. You have, therefore, undoubtedly evidence of constipation. Flatulence is very often called indigestion. In this case, therefore, you have both constipation and flatulence. From the evidence that I have got of the history of this lady from 1915 till 1919 I am of opinion that auto-intoxication of a more or less severe type was going on. Assuming it was going on, it would lead to peripheral neuritis. The distinction between peripheral neuritis caused by auto-intoxication and peripheral neuritis caused by arsenic is that the tenderness of the muscles on pressing is much more pronounced in arsenical or any other metallical poisoning; it is not a marked sign of peripheral neuritis due to auto-intoxication. In this case it is clear that there is no evidence of tenderness of the muscles. Taking that symptom into consideration, it makes me form the opinion that the peripheral neuritis was the result of a continuation of the auto-intoxication. I was asked whether, if there had been a dose of arsenic given before the 18th August, that might cause the albumen which was found on that date. Auto-intoxication would also cause that albumen.

And, supposing the albumen was caused by auto-intoxication, might it clear up, or not, as this did, by the 28th?—Yes; albuminuria caused by auto-intoxication has that peculiar characteristic that it comes and goes; that is why one so frequently has to have another examination for life insurance. There is nothing in my opinion in the finding of albumen on the 18th August, which disappeared on the 28th August, to show that that was caused by arsenical poisoning. It is perfectly consistent with auto-intoxication. Peripheral neuritis is not a certainty in cases where arsenic has been administered. Take the case of Mr. Martin, if arsenic was administered there, there certainly was no sign of peripheral neuritis.

By Mr. Justice Darling—Would you expect it from one dose?—It has come on after one dose.

Would you expect it?—No, I should not expect it, because the cases where it does not occur are more numerous than those where it does occur.

Re-examination continued—The Attorney-General put to you, did this peripheral neuritis give all the signs of the arsenical peripheral neuritis, and I understood you to say just now that you would expect tenderness of the muscles, which was absent?—That is so. I would also expect to find tenderness of the nerve trunks, but that was absent also. You also find in peripheral neuritis numbness; the sensory symptoms are very common. I would expect to find numbness in peripheral neuritis caused by arsenic. As far as I know, there was no evidence of numbness here.

You were asked whether dilatation of the heart was consistent with arsenical poisoning. Tell me, in relation to this case, what dilatation of the heart would also be consistent with?—Auto-intoxication is the most common cause of dilated hearts. I have never known any cases of arsenical poisoning where acute melancholia has followed the dosing by arsenic.

You were asked as to an answer by Dr. Spilsbury concerning the question of, first of all, the giving of arsenic in Barnwood for a month. In your opinion, would the giving of arsenic for a month to the extent of 1/7th of a grain per day materially affect the progress of a patient if that patient was suffering from arsenical poisoning?—In my opinion it would not only have retarded it, but it would have made it worse.

I agree with what the Attorney-General has said, the evidence is that during the whole of the time at Barnwood this lady was progressing. Are you able from that fact to form any opinion as to whether she was suffering from arsenical poisoning in August, 1920, or not?—I should say it is a very, very strong factor against it. High-steppage gait is not consistent only with peripheral neuritis caused by arsenical poisoning; it is also consistent with peripheral neuritis caused by auto-intoxication. As regards the absence of knee jerks, in the case of nervous women, one dose would not be sufficient for one to form an opinion as to whether the knee jerk was present or not. In one case which I had I tried on three different occasions before I could get the knee jerks.

You were asked whether you had any personal experience of the encysting or encapsulating of arsenic in the stomach, and you were asked whether you agreed with Dr. Willcox and Dr. Spilsbury when they said that they had had no personal experience. Do you also agree with those two gentlemen that such instances do occur?—They do.

I want to draw attention to one answer of Dr. Spilsbury—"Arsenic has been found encapsuled or encysted in the stomach;

one case I remember where the patient died of acute poisoning very rapidly." Putting it quite straight, do cases of the encysting of arsenic in the stomach take place?—They do.

And, if they take place, do you then get the arsenic gradually coming away from the stomach?—Yes. If you found arsenic being encysted in the stomach, and gradually coming away, you would then find that arsenic going on down through the jejunum and the ileum into the cæcum, which is what was found in this case. Having heard the whole of the evidence, having read the whole of the depositions, having considered carefully the evidence which has been given by the other doctors, in my opinion the arsenic from which Mrs. Armstrong died was given in one big dose on the 16th.

By Mr. Justice Darling—I stated yesterday that I had read Dr. Townsend's and Dr. Soutar's report on Mrs. Armstrong while she was in the asylum, and that it pointed to her condition being functional as distinct from organic. I relied for that on the report where it says, "The subjective sensations of which the patient complains are common in functional disorders, and the distribution and variability of the objective alterations in sensation which are ascertained point to a functional disability. The postures of arms, legs, hands, and feet, which Mrs. Armstrong assumes, and her gait suggest functional rather than organic trouble." I recollect Dr. Townsend when he was re-examined said, "I must now say that I do not think the opinion that Mrs. Armstrong's state was entirely functional was correct; at one period there was an organic cause as well." I remembered that when I gave my answer. I do not think that contradicts the report.

Dr. William Ainslie, examined by Mr. Bosanquet—I am an M.D. and a F.R.C.S. of Edinburgh, and I practise in Hereford. I was present at the post-mortem examination on the body of Mrs. Armstrong. The joints were not opened; there was no examination whatever made during the examination to find whether she had any rheumatoid arthritis or not. I have followed the evidence in this case very carefully. Having regard to the history from 1915 onwards of Mrs. Armstrong, I should say that the probable cause of her condition when she went to the asylum was that she was a chronic invalid and suffered from chronic indigestion—as it has been said, "a martyr to indigestion" for years. She had chronic constipation, with gallstones, and that condition brought on toxæmia or auto-intoxication, or whatever other name one likes to apply to it, which produced the whole of the symptoms up to that time. In my opinion the effect of the arsenical tonic, consisting of 1/7th of a grain, taken three times a day, had she already been suffering from arsenical poisoning, would have been to make the neuritis worse. Having heard the whole account of Mrs. Armstrong's last illness, and also the account of what was

found at the post-mortem, I am perfectly certain myself that she died of a large dose of arsenic, which was taken about the 16th or 17th. I cannot give the date because of Dr. Hincks's hazy evidence about his dates at that time.

By Mr. JUSTICE DARLING—Then it comes to this, does it, that in your opinion the first dose of arsenic, except the little mixture in the asylum, was the first dose of arsenic she ever had?—Yes.

Examination continued—And the last?—And the last.

Mr. JUSTICE DARLING—And the only dose?

Examination continued—I say that this is quite consistent with the symptoms found during life, and what was found at the post-mortem. I heard the evidence with regard to Mr. Martin. As regards the bottle, I do not think it was the proper method to take a test at all in a serious condition like this. If I had been doing it I should have sent to the laboratory and asked for an arsenic-free bottle to start with. I would do that, because there is sometimes arsenic in the glass itself.

By Mr. JUSTICE DARLING—In the glass of which the bottle is made?—Yes, but not enough to count.

Examination continued—I should get two of these bottles to start with, and then I should wash out the bottle a few times and boil it so as to have a better chance of dissolving out any arsenic there, and the last washings I should send with the bottle as well. The powder of arsenic is not a light powder. It is a heavy powder. I heard the evidence of Dr. Toogood as to bismuth, sulphate of magnesia, and peroxide, and I agree as to the fact of arsenic being an impurity of each of those substances.

Cross-examined by the ATTORNEY-GENERAL—As regards how I came to attend the post-mortem, I got a telephone message from Mr. Matthews asking me to go to the post-mortem examination, as it was a very important case. I did not know anything about the case. I was there merely as a representative of the prisoner. The only bones opened were the head pieces, and the middle side of the femur was removed, but no joints were opened. I do not suggest that they should have been opened, but I was asked had any special examination been made to see if there was any arthritis. It is not a thing one would generally do at all. If there had been any signs externally of rheumatoid arthritis I am sure we would have noticed them, and then no doubt the joints would have been opened. I do not recollect of any question being put to Dr. Spilsbury about opening up the joints to see if there was rheumatoid arthritis. I never saw Mrs. Armstrong as a patient; I did not know anything about her. What I have been saying is based on an opinion formed on what I have heard in the cross-examination at the trial, the post-mortem examination, and the reports. I cannot say that I have had many cases of arsenical poisoning in my practice. I have seen them, but not in England. I have seen one or two cases dealt with by specialists,

which made me take an interest in it, but I do not place my opinion on a level with Sir William Willcox. Some years ago I saw cases in China. As a matter of fact, I have had no cases of acute arsenical poisoning in my experience. I know Dr. Hincks very well. I have often met him professionally. I have had consultations with him in difficult cases. I have known him altogether for about twenty years, and during that time I have always known him as a doctor of high standing.

You said Dr. Hincks, having experience of this case, in fact was hazy. Is that quite a fair description, do you think?—Well, perhaps not, but Dr. Hincks's evidence is so little—after the woman has been dead ten months.

Is it?—With the exception of his visiting list.

Is that what a doctor like Dr. Hincks ought to make his record in, in his visiting book?—If you bring that in, the doctor in the Magistrates Court said he had only one note in his visiting book except the word "neuritis."

I am sure you do not wish to tell Dr. Hincks how he should conduct his business, or that he should tell you how to conduct your business?—No.

Dr. Hincks was summoned on the 16th February by telephone, and he has told us, referring to his book to refresh his memory, that he paid one of the first visits on that day to Mrs. Armstrong early on that day?—Yes.

I want to call your attention to that, because what I thought you said was this, that apparently Dr. Hincks's visit was on the evening of the 16th or the morning of the 17th?—No, I did not say that. I said that the nurse said it was the 16th and Dr. Hincks said it was on the 17th. It was Nurse Allen who said that. If you take the whole of the evidence altogether it does not agree in a great number of places between Nurse Allen, Nurse Lloyd, and Dr. Hincks. I am satisfied that Mrs. Armstrong did have a large dose of arsenic either on the night of the 16th or the early morning of the 17th. Supposing she was found to be suffering from vomiting and pains in the stomach, and so on, early on the morning of the 16th, that would point to a dose of arsenic already having been taken by her, but Dr. Hincks was not sent for till the 17th.

We have it as to 16th February that he was summoned by telephone, and the evidence is it was his second visit on the morning of the 16th. Are you implying that Dr. Hincks did not visit Mrs. Armstrong till the evening of the 16th or the morning of the 17th?—No, I thought Dr. Hincks said he did not go till the 17th. It would be the nurse who was wrong. I put the question of the time Mrs. Armstrong had a dose of arsenic at some time before Dr. Hincks visited her.

And if he visited her early on the 16th, when there were these symptoms, the dose must have been some time on the 15th?—

Oh, no, that does not follow at all. She was well, I think, on the 15th, and she was out on the 14th in the garden, and I think the evidence of somebody yesterday was that she was well on the 15th, so it could not be then.

But supposing he was summoned by telephone early on the 16th, and he finds her vomiting and suffering pain in the stomach, and so on, would those symptoms be symptoms of arsenic?—Yes. I agree she died of arsenical poisoning. If she was found to be suffering like this early on the 16th, if she took arsenic, it must have been taken before those symptoms appeared. I should think that she must have had a dose of arsenical poison half an hour to an hour before the nurse found her in the condition in which she said she found her on the early morning of the 16th. I have already said that I have never known of a case of encapsulation in poisoning in my experience, but I have looked up authorities, and I find that it is not unusual. I think Dr. Spilsbury said it was not uncommon.

If this were a case where arsenic was encysted, would the symptoms come on in half an hour?—Most certainly they would have come on. We do not know in the first place how the arsenic was taken. If the arsenic is in milk or Benger's food, for instance, it all varies. What happens is, some of the arsenic becomes encysted, and a little is spread over the stomach, and a lot of crystals get stuck to the stomach, but parts become encysted, and some passes on, and the arsenic becomes dissolved in the first part of the symptoms and the rest is blocked by mucus, but it is there. Those are cases where a pouch has been formed and it has been encircled by the stomach wall, but that is not my argument, and we did not find it at the post-mortem. We have cases where a solid block of arsenic (there is no question of this being liquid, it must have been solid), some of it gets surrounded by mucus.

By Mr. Justice Darling—Are you arguing what did take place or might have taken place?—I am arguing that it might have taken place. No one denies the possibility of it.

Mr. Justice Darling—I will refer to what Dr. Spilsbury said on the subject. "I remember a case in which the encysted arsenic was found in the stomach, and, as far as my recollection goes, the patient died rapidly."

Cross-examination continued—I want to know, did you or did you not find any encysted arsenic in the stomach at the post-mortem examination?—I did not expect to.

Perhaps you will answer the question. I want to treat you as an expert—you did not?—No, I did not.

A portion of the arsenic taken at some time before these acute symptoms came on—a part acted and part encysted?—Yes.

The part encysted gradually ceased to be encysted and acted later; is that it?—Yes, it is incorporated.

Now, will you tell me, except for some cases in the book, have you ever known of this encysting taking place?—No. The book I refer to is Blythe's "Poison and their Detection," last edition. It is also referred to in a number of other books.

Is it not remarkable that, if encysting takes place, neither Sir William Willcox, Dr. Spilsbury, nor Dr. Townsend ever met a case of it?—Yes, it is, because it is so frequently mentioned. I am almost certain it is to be found in Witthaus.

Sir H. Curtis Bennett—The first reference, I think, is at page 449.

Cross-examination continued—I will read the passage referring to it—"A girl of nineteen confessed to having taken arsenic during the morning, and it was thought she took it at eleven o'clock in soup. No very serious consequences were observed before evening, although she several times changed colour, and gave other signs of suffering and anxiety. She dined fairly well at 2 p.m. At 7 p.m. she vomited with extreme violence. She was seen at 11 p.m. by Tonnelier, who observed the symptoms of severe arsenical poisoning." A little later on is the question of encysting. "In the stomach was found a cyst, in which traces of the vessels could be seen and in the interior of which was thin partitions, forming a cellular structure containing fragments of crystalline arsenic of varying size. In the opinion of Dipuytren this cyst dated from one of the previous attempts at suicide."

That means that in that girl's stomach there was, in consequence of attempted suicide by arsenic, a cyst forming a cellular structure?—Yes.

And some of this arsenic got into this, and a part was formed in part of the stomach of that girl?—Yes, I think that was in my mind.

And this case was not a case where the arsenic was walled with mucus round it, but a case in which there was a cyst attached to the stomach of the girl?—Yes.

And it so happened that arsenic got into that little pocket attached to the stomach?—Yes.

And then, unless there were a growth or pocket attached to the stomach, it would not have happened?—Not in that case.

Come now to page 497, which is the passage I referred to. I think I shall have to go a little back to the case of *Regina* v. *Madeleine Smith*. "Professor Penny separated 3.2 grains of crystallised arsenic from the stomach. These particles are most frequently found in the stomach, but they have also been found elsewhere, in the duodenum, in the ileum and jejunum, in the large intestine, and in the mouth and between the teeth. In an early case a cyst containing crystallised white arsenic was found in the stomach." This is the one case in which is given the passage I referred to of Madeleine Smith, and has no reference to a cyst

at all?—No, but it has reference to the particles found in the stomach, attached.

But may we keep to one thing at a time?

Mr. Justice Darling—We are talking about arsenic that may become encysted or encapsuled. In Madeleine Smith's case, if I remember, she gave a Frenchman a large dose of arsenic in a cup of chocolate, and some was found in the man's stomach.

The Attorney-General—Yes, I think a cyst was found in the stomach, not that the arsenic had been encased.

The Witness—It does not necessarily follow.

Cross-examination continued—With regard to page 526, I think that refers to the length of time arsenic would remain in the stomach, because it says, "In a case of accidental poisoning in which death occurred in three days, Aguilham and Barse found arsenic in the stomach by Marsh's test. In a suicidal case in which death occurred in two days de Bartholomew found crystals of arsenic in the stomach." I have also read the passages on page 526, where it is stated, "With regard to the maximum limit of time during which some portion of a poisonous dose of arsenic may remain unabsorbed in the stomach, the data are equally unsatisfactory. In very few fatal accidental or suicidal cases of long duration have analyses been made. In the case of the Duc de Praslin, whose death occurred on the sixth day, arsenic was found in the intestines in a small amount, but no mention is made of the result of the examination of the stomach, although that organ was submitted to the experts." I do not find in those passages any case recorded of what has been called balled or capsuled arsenic, but it says there, as regards the length of time in which the arsenic remains in the stomach, the data are equally unsatisfactory. I cannot tell at what time Dr. Hincks first called on the 16th February. I do not think the symptoms from which Mrs. Armstrong suffered before that time were consistent with arsenical poisoning. High-steppage gait is not necessarily consistent with arsenical poisoning.

I did not say "necessarily." I asked, is the high-steppage gait consistent with arsenical poisoning?—Yes, it is consistent with arsenical poisoning, and it is consistent with a great many other things.

I dare say, and the murmur in the heart, is that consistent with arsenical poisoning?—No, but it might occur. Vomiting is a symptom I should expect from arsenical poisoning, but it does not always occur. I believe I have heard of cases that have occurred where the person died without vomiting.

In the case of Mr. Martin, I think this history of 1/33rd of a grain in the urine indicated nothing to you?—If I were absolutely certain that this man had passed that urine with that quantity of arsenic in it, then he must have taken some arsenic to have given him that amount.

Supposing after four days he passed 1/33rd of a grain, what do you think he would have taken four days previously?—We have absolutely no data upon which we can go to say.

Are you familiar with a paper written by Sir William Willcox in 1917 on arsenic to be found in urine some days after the administration of arsenic?—That paper was written on the absorption of salvarsan. I am not familiar with that paper. I knew before I came to this Court that Sir William Willcox had made a number of tests.

And did you know that he had made a particular study of traces to be found in urine after arsenic had been administered some days previously?—After salvarsan had been administered.

That includes arsenic?—Yes, but there is no comparison. You cannot compare the results.

If Sir William Willcox says you can, do you say you cannot?—Most certainly I do, because the salts are quite different. Salvarsan is an extremely soluble salt and the other is extremely insoluble.

And may I take it from you that the tests of Sir William Willcox are quite unreliable?—Oh, certainly not.

Do you say that the evidence given by Sir William Willcox as to the amount of arsenic found in the urine after the administration of arsenic is all incorrect?—I have not said so; but he said it was done through using salvarsan; when he used salvarsan one cannot compare the results.

Then you differ from Sir William Willcox in that?—The one is injected into the veins and the other is taken into the stomach, unless he says he does it with oxide.

Do you know he has also tested white arsenic?—No; if he says so I agree.

Do you know that these results are found in white arsenic as well? If he says he has done it with white arsenic would you accept it?—Yes; I always accept an expert.

And do you agree that Sir William Willcox is the greatest authority on arsenical poisoning?—Yes; at least I do not know any better; I cannot think of anybody better known. The margin allowed for arsenic as an impurity in bismuth by Act of Parliament is very small, but it does not follow that those Acts passed during the war are still operative. If it is stated in Taylor that the limit of arsenic allowed in bismuth should be two parts of a million, I should say if used with a greater margin of arsenic it was improper. But then there is a law stopping men driving motor cars beyond a certain speed, but it is not always observed. What I mean is, to put it shortly, those laws were very special during the war. I do not dispense my own medicines. I do not think it is right to cast any slur on Dr. Hincks's dispensing. I know

Messrs. Philip Harris & Co., of Birmingham. They are a firm of high repute, a trustworthy firm from which to get ingredients.

Do you think they could be trusted to supply bismuth?—Yes; but there is no reason why you should not get a sample which might not be up to the standard it should be. We know there are many things like that.

If you had sent that sample up to Dr. Webster and received his report, would you have treated his report as valueless?—No, I do not say his analysis was wrong; I accept it at once.

Re-examined by Sir H. Curtis Bennett—You asked to refer to certain things you had read in Witthaus, and I want to draw your attention to this passage on page 496, one of the passages referred to—"An examination of the surface of the mucous membrane with the aid of a magnifying glass will, if the poison has been taken in the shape of a crystalline powder, usually reveal the presence of minute particles firmly adherent to and embedded in the layer of mucus or even in the substance of the membrane." Is that one of the matters you had in your mind?—Yes. Arsenic is sold in a variety of forms. It is sold as what is known as white arsenic, but the solubility is different in each kind. In this case it was a mixture of the whole lot altogether, and the symptoms are not the same. In Blythe I find "a single dose of arsenious acid may cause a prolonged fatal illness." That is the case I had in mind. The man endeavoured to commit suicide and took a large dose of arsenic, and lived for six days. He had symptoms of arsenical poisoning going on the whole time.

By Mr. Justice Darling—I had read of the case of the Duc de Praslin before I gave my evidence, and I had told Sir H. Curtis Bennett about it. It was not because it was a case of six days, and it was six days before the death of Mrs. Armstrong, that I told Sir H. Curtis Bennett about it.

How did you fix on six days before her death for the dose that killed her?—Because, as I answered before, I did not think the symptoms occurring before the 16th were due to arsenical poisoning.

Dr. John Steed, examined by Mr. Bosanquet—I am a doctor of medicine and a master of surgery of Edinburgh, and I am in practice at Stanton, on the Wye. I have been in Court during part of the hearing, and I have also studied the evidence in the case of Mrs. Armstrong. I have read the reports. Having regard to the whole of that evidence, I should say the cause of her condition when she went into the asylum in August, 1920, was undoubtedly some internal condition from which she had been suffering for a long time. That condition caused her to have symptoms of indigestion, rheumatism, forms of neuritis, and gallstones. I look upon the gallstones as a symptom reacting back on the original cause. I heard that Mrs. Armstrong had a tonic

given to her for a month while she was in the asylum, which contained 1/7th of a grain of arsenic per day. Assuming that she had already taken arsenic into her system and was poisoned by arsenic, in my opinion that tonic would retard recovery and probably increase the symptoms. Having heard part of the evidence, and having studied all the evidence with regard to Mrs. Armstrong's symptoms, and having heard what was found at the post-mortem, assuming also that arsenic was the cause of her death, I should say that it was taken in the form of solid arsenic in a large dose on the 16th February, in the morning. I heard the evidence of Dr. Ainslie with regard to Mr. Martin, and also the evidence of Dr. Toogood. I agree with what was stated by them.

Cross-examined by the ATTORNEY-GENERAL—I agree with what they said about the standing and reputation of Sir William Willcox, also of Dr. Spilsbury and Mr. Webster. I have not had many cases of arsenical poisoning. I was present while the doctors were being examined on the Crown side, with the exception of Sir William Willcox. With regard to August, I put down Mrs. Armstrong's condition at that time to what has been called general toxæmia. I know that in life the diagnosis of arsenical poisoning is a little difficult; there are other poisons which cause symptoms very similar. If Mrs. Armstrong had been suffering from poisoning from arsenic she would have multiple neuritis after the effect of arsenic had ceased; at least I would expect that to come on after the immediate symptoms of the arsenical poisoning had passed away. I do not care to give an opinion on when to expect the arsenic to pass away from the body, quite apart from the nails and the hair. Assuming that she had a vomiting on the 13th February, that might be quite consistent with arsenical poisoning.

In view of the fact that we know she did die from arsenical poisoning, do not these symptoms of which you have been good enough to speak point to it being arsenical poisoning before the 16th?—In my opinion, no.

What I want to get from you is when did the symptoms that you said are consistent with arsenical poisoning cease?—Individually?

When did they cease to be auto-intoxication and become arsenical?—When she had acute vomiting on the morning of the 16th.

What makes you say that?—The symptoms which we have heard from Dr. Hincks seem to me to prove fairly, almost definitely, with the nervous symptoms from which she was suffering when she came back from Barnwood on the 11th, I think, when the examination was made, that she was not suffering certainly from arsenical neuritis. Her symptoms as detailed by him were—"She had an absence of knee jerks, no ankle clonus, no planta reflex action, and this high-steppage gait." I admit those may be

and are symptoms of arsenical poisoning, but there was no mention made of any tenderness along the course of the nerves. That, in my opinion, is a *sine qua non;* it is a thing that you cannot make a diagnosis of multiple neuritis without finding.

You are taking it from the evidence that Dr. Hincks said definitely that there was no tenderness?—He said he did not know; he had not examined for it.

I think his actual words were, "I have no recollection"?—Perhaps it was in some deposition somewhere else.

You know that sometimes depositions and the actual evidence given do not coincide completely?—No. Dr. Hincks is well known to me. He would know quite well how to test reflexes. High-steppage gait occurs in arsenical paralysis.

Re-examined by Sir H. Curtis Bennett—High-steppage gait is apt to occur in all forms of peripheral neuritis.

Sir H. Curtis Bennett—That is my case, my lord.

Mr. Justice Darling—I want to ask Mr. Matthews a question or two.

T. A. Matthews, recalled, by Mr. Justice Darling—I want you to understand in what I am about to say I do not make the very slightest suggestion against the propriety of anything you did. You begin by understanding that?—I am much obliged.

I want to ask you about the discovery of the arsenic in the bureau. As I understand it, from something said to you by the defendant, you went to look for that on the 1st January, and you then, from what had been told you, imagined you might find arsenic in that drawer where you ultimately found it?—If it had not been taken away. I looked to find a packet of white arsenic.

You did not find it on that day, and you went back and then you received some other instructions. In consequence of what he told you you went again?—No; what I went again for on the second occasion was in consequence of what my clerk had told me in reference to the recipe; it had nothing to do with the white arsenic.

You understood the police had not discovered the recipe, and so you went again on the 9th February to look in the drawer to see if the arsenic was there?—No, if I may very respectfully explain it, on the 9th February I went again expressly for the purpose of seeing whether the recipe was there, and of examining it, and it was after I had done that that I made a casual remark, which your lordship said I must not mention, to my managing clerk, and then I put my hand in the drawer.

If there is no objection taken, I do not mind it?—I turned to him and said, "This is the drawer where the white arsenic is supposed to have been," and I opened it. I found the arsenic. I placed it back in the drawer and took Dr. Ainslie on the following Tuesday, and he saw it still in its place. Dr. Ainslie

took it away with him, and it was in his possession from that time onwards. I considered that that had a great bearing on the case. On the Friday I consulted Mr. Bosanquet; he was here on the Assizes; he was doing some other cases for me, so I consulted him.

You are acquainted, I suppose, with the law concerning being an accessory after a fact to a felony?—Generally speaking, yes.

Did it occur to you that you must make your own position very clear?—It impressed me so much that I went on the Sunday afternoon after seeing Mr. Bosanquet to see Sir Henry.

You realised, I take it, that from that moment you might not destroy that arsenic?—Yes, I had not the slightest intention.

I said at the beginning I am not imputing a bit that you meant to do anything wrong; in fact, I am quite sure you did not?—I am much obliged.

What I want to arrive at is that you appreciated that it would not do for you to do away with that arsenic?—I did.

Or to allow anybody else to?—Certainly.

And you appreciated, did you not, that anybody who did that would most certainly be interfering with the administration of justice. I suppose you have read Coke's Institutes?—In my earlier days.

You realised that it would be at least that?—I cannot say that I appreciated it to that extent, but I realised I could not destroy it.

And if you did destroy it, that would be making yourself an accessory after the fact to a felony if you knew that the felony had been committed; after you had talked to Mr. Bosanquet?—I cannot say that I appreciated it in that light. I will be quite frank.

Did you before this case came here look at the case of *The King* v. *Levy* in 1911?—No, I did not; I consulted Sir Henry, and I was quite content.

Having consulted Sir Henry Curtis Bennett, you did not mind what Lord Coke thought or what Mr. Justice Hawkins thought?—If I may say so, I thought the responsibility was shifted from me.

I thoroughly appreciate your position. I say again, nobody must think for a moment that you did not do everything which was perfectly right and proper such as a professional man acting for a prisoner ought to do in the circumstances?—If I might go further, after what your lordship has said, one of the reasons for going up on the 9th February was that I had arranged for the family to go back on the following day, and I wanted to take the opportunity of going up and inspecting the recipe before they went back. Immediately we discovered this I took steps to stop the family going up till I knew what I could do.

I want everybody to understand that there is not the slightest

reflection on you. If anybody thought it I should be the first to inform them that there is no ground for it whatever?—I value that, my lord, more highly than I can say.

Closing Speech for Defence.

Sir H. Curtis Bennett—If your lordship pleases—gentlemen of the jury, only two days ago I had the opportunity of addressing you, I am afraid at some considerable length, in opening the case for Major Armstrong to you. Having opened the case on that occasion at some considerable length, and, if I may say so, having realised how carefully you have attended to what I then ventured to put before you for your consideration, I hope in addressing you now for the last time to be able to confine my remarks to a very much shorter period of time than I occupied on Monday. Gentlemen, you have reached now very nearly the last stage of this most remarkable case, because to-morrow, I take it, you will have to consider, each one of you, your verdict, and you will have to give your verdict; and you will not forget when you do come to consider that verdict that it is a verdict not only of you twelve gentlemen collectively, but of each one of you individually. Each one of you is just as responsible for the verdict as any other one; and, therefore, each one of you will have to form your opinion absolutely upon your own view of the evidence; and, having formed that opinion, you will then consult together and be able to give, I hope, a unanimous verdict.

After I addressed you on Monday his lordship cautioned you, or at least exhorted you, not to discuss the matter unduly until you had heard everything that could be said on either side. I must say, with respect, I a little regret that that caution was not given at the end of the Attorney-General's opening for the prosecution on Monday of last week; and I a little regret, and I say it with great respect, that it should only have come when the defence was for the first time put before you, and that you had not it before you when you were going to hear the evidence given for the defence, because, if it was a good exhortation at all, it was an exhortation which in my view ought to have existed all through a trial which has such nice issues as this trial has.

Mr. Justice Darling—I say at once that I regret I had not given the advice sooner. It is advice that I ought to have given the jury before, but I gave it the first moment it came to my mind.

Sir H. Curtis Bennett—Yes, and I am sure your lordship will not mind my saying what I have.

Mr. Justice Darling—Not in the least.

Sir H. Curtis Bennett—I agree with what his lordship has already said, that if such advice were going to be given I regret, appearing as I do for Major Armstrong, that that advice should

only be given when my time had come to put the prisoner's case before you.

All of you who know Mr. Matthews will be pleased that to-day and last evening a very strong stand was taken by the prosecution, and by my lord, in withdrawing any sort of insinuation against that gentleman's good faith. It was thought necessary by the prosecution not only to recall Superintendent Weaver, but also that girl Price—that some suggestion was going to be made that somebody had put that little packet of arsenic into the bureau after the police had searched. That suggestion was the result of the course taken by the Attorney-General during the case; and I desire now, before I finally deal with the facts of the case, to say that I am most grateful for the assistance I have received in this case, not only from both my learned friends, who have been of the greatest assistance to me in a most anxious, difficult, and complicated case, but I also desire, if I may, to express my grateful thanks to Mr. Matthews and those who have worked with him for the assistance they have given me. It is quite impossible to conduct a case of this sort unless one has a number of loyal helpers. It is possible to come into Court and ask questions, but those questions are the result of a great deal of hard work, anxiety, and inquiry; and, although I put those questions, do not imagine that I am not grateful to those who have assisted me.

Now, gentlemen, for the last time let me point out to you again what in my submission shows what your verdict must be in this case, and I want again, if I may, to ask you, as I did on Monday morning, to take the two cases and look at them: the case that Major Armstrong administered arsenic to his wife, from which she died, and the other case, which is not necessary to prove, that Mrs. Armstrong was of suicidal tendency, and in fact committed suicide. If you will look at the case from these two points of view I think it will be helpful to you in coming to a proper conclusion here; and just remember this, that when you go to consider your verdict, your verdict has to be given that day, at that time. It is no use your saying in a fortnight or a month's time, "Well, I hope we were right; I hope that verdict was right; I hope there was not anything in that suggestion of her committing suicide." Let your minds have nothing of that sort to deal with in future life. You have to give your verdict where you are after his lordship has summed up. You will then have to consider that verdict, and it has to be given then, and it is final. On a question of law there might be an appeal, but, so far as your verdict is concerned, it is absolutely final, and do not get into your minds, as sometimes gets into jurors' minds, that there is a Court of Criminal Appeal, and that the verdict is not final.

Now, quite shortly, what again is the position of this case? The prosecution set out to prove their case (not to make a suggestion, for that is so easy), not to say to one doctor after

another, is one system and another system consistent with arsenical poisoning, and so on. I do not know, but I should think you must be sick to death of rheumatism, multiple neuritis, neuritis, auto-intoxication, and peripheral neuritis. You have to decide the question not on a single answer of that sort, but you have to give your verdict, as I know you will, on the whole evidence in the case; and, taking the whole evidence in the case, you have to say to yourselves, are we, or not, satisfied beyond any reasonable doubt—which means the sort of doubt which may influence you in your ordinary affairs in life—that the prosecution have proved that Major Armstrong administered poison to his wife, from the effects of which she died? And if you are not satisfied to that extent, then there is only one verdict open to you, and which as honourable men you would desire to give. Gentlemen, doctors have been called on each side, and I want to say this, when a man is charged with an offence in this country he has not got the great advantages that the Crown has got, and I rather deprecate this sort of drawing of distinctions all the time between the position of a man like Sir William Willcox and Dr. Toogood, and between Dr. Spilsbury and Dr. Ainslie, and between Mr. Webster and any other analyst. Of course, the Crown are in a position to call the best-known experts in this country, but because they are in a position to do that, is not it rather a pity that when a man who is charged—and as I said to you on Monday morning it might happen to you to be so charged—that he can only call the best men he can get and that his purse will run to; and, gentlemen, you have heard these doctors on both sides in the witness-box, and I am quite content to leave this matter entirely to your judgment, for you have listened to the evidence most patiently, and to the witnesses for the Crown who were examined at great length, then cross-examined, and re-examined at great length. Nobody complained of their answers; nobody complained of the length of their answers; but when I was cross-examining, you will remember I was often told to wait for an explanation when I wanted yes or no. The doctors who were called for the defence—I am not complaining of my friend the Attorney-General—have been told to answer yes or no. They have been stopped when giving an explanation time after time. It is for you to say whether my criticism is right or not, but I do submit to you that it was a pity that doctors, though they may not be on the one side in the position of Sir William Willcox, are yet gentlemen of great experience and honour who have come here to tell you to the best of their knowledge the true explanation of this case, and I am certain that you will take their evidence into your consideration just as seriously as that given by people who have been accustomed to give evidence and are experts in the truest sense of the word. Suppose it were not a murder case where any question of poison came in, or if it were an abortion case, these gentlemen

give evidence as do Dr. Spilsbury and Sir William Willcox. They are accustomed to give evidence over and over again, and, being accustomed to give evidence, they go into the witness-box, and you notice how extraordinarily careful they are, and quite rightly, to give a studied answer; and all I say is that those gentlemen who have had not so much expert experience or material before them have had, perhaps, a good deal more ordinary business of a medical man in their ordinary experience as a doctor. Dr. Ainslie and Dr. Steed are well known, and are of great experience, and I ask you to take their evidence into consideration as seriously as the evidence given for the prosecution; and, directly you do that, what is the position you are in? That there are doctors for the prosecution on the one side, and three for the defence taking entirely different views as to the symptoms in this case, and on consideration of those symptoms are you going to say, when you are dealing with a question of life and death, "We are going to pick out these two and disregard the three"? Are not the witnesses for the defence just as credible as those for the prosecution? And if you are left in doubt and in the position of being able to say to yourselves, "We hear so much about Dr. Spilsbury and Sir William Willcox, but, on the other hand, we know of Dr. Ainslie and Dr. Steed"—if you are left in that position, then I am sure that in dealing with a matter of this sort you will find, as you will be told you ought to find, for the prisoner if you are left in doubt, and that you will give a verdict of not guilty.

From 1915 right up to 1919—I will not deal with the little details—Mrs. Armstrong was suffering more or less from rheumatism and loss of power in her hands and feet. All those symptoms were in existence before May, 1919, and in May, 1919, they were so severe that Dr. Hincks is called in, and he treats her up to August, 1920—perhaps in the early part of that year 1920 she was not suffering from neuritis in such a serious form; but can it be said that is a fair basis to start the case on? Can you say that up to August, 1920, Mrs. Armstrong was a normal healthy woman? She had been suffering not only from neuritis, rheumatism, and loss of power in the hands and feet, but from indigestion. I do not use the expression "a martyr to indigestion," but she had suffered from indigestion all that time, and you have heard from the doctors to-day that she was suffering from poisoning herself, owing to some of her organs not acting properly, and you will expect symptoms of constipation and flatulence or indigestion, and it is a most extraordinary thing that whenever it comes to a test the symptoms in this case are found to be consistent absolutely with the cause of the illness of Mrs. Armstrong up to February, 1921, being the result of natural causes.

Then she goes to Barnwood Asylum on the 22nd August, 1920, and up till that date, when these experts for the Crown are cross-examined, they have to admit that there is no evidence of arsenical

poisoning; but they say up to that date, 22nd August, because there was vomiting that, therefore, there was evidence on that day of arsenical poison. Of course, it is easy to take one symptom, as Dr. Steed said to the Attorney-General, and say, if she was suffering from vomiting on the 22nd August, is not that a symptom of arsenical poisoning? Of course it is, but you have to see what her past medical history has been; and if there was vomiting that day, are you, because it is consistent with arsenical poisoning, to shut out everything else and say, "We are satisfied that she was suffering from arsenical poisoning"? They pass then to the tests, the albumen and peripheral neuritis which came on a few weeks after. It is not suggested there is no evidence of rheumatism or neuritis, or that it was likely to become multiple neuritis. There was evidence of it for years past, but because they started with this suspicion of Major Armstrong, then when you get symptoms of multiple neuritis it is said to be due to arsenic. The history of the case is the other way. You can test again whether that disease from which she was suffering in the latter half of 1920 was due to arsenical poisoning or natural causes. You can test it in the best possible way, because it was agreed to by Dr. Spilsbury, as well as by Dr. Toogood, Dr. Ainslie, and Dr. Steed, that the administration of arsenic to the extent of 1/7th of a grain a day, if she was suffering from arsenical poisoning at that time, would retard her progress, and in their opinion it would have brought out arsenical symptoms again, which undoubted fact was brought out by the Attorney-General when examining those doctors. This is a question about which there can be no dispute. Is it not a case of working back and saying, because she was suffering from that on the 22nd we come to the conclusion that she was taking arsenic in 1920? But of this there can be no dispute, that during the whole time that Mrs. Armstrong was in Barnwood Asylum she was improving all the time. Is not that (you will consider it, and I only put it forward for your consideration) one of the best tests you can take? How can you in the face of that evidence say, "We are satisfied that she was suffering from arsenical poisoning"? It is the strongest test you can get, and Dr. Spilsbury was bound to admit in cross-examination by me that if she was suffering from arsenical poisoning you would expect her to have at any rate her progress retarded, and it would probably have brought out other symptoms, and yet you find that administration of arsenic of 1/7th of a grain and her suffering from auto-intoxication, and if she was suffering from auto-intoxication you would expect, says Dr. Spilsbury and the other doctors, that she would be getting better from day to day, and that is what she did do. I believe that you can appreciate that as easily as I can; but when you come to consider your verdict in this case, take that very seriously into your consideration, and

use it as a test, and do not take the test whether she vomited once or twice on a certain day, but take a test of that sort on which there is no dispute in the evidence; and when you come to test it in that way, in my opinion you can only answer in one way the question whether the whole basis of the prosecution is not founded on a falsity.

The whole basis of this case is that in August, 1920, Major Armstrong started to poison his wife, and you must not forget that evidence as regards the affection and attention that were being displayed at that time by Major Armstrong to his wife. You will not forget that this alleged poisoner at the moment he was going to set out to poison his wife, according to the prosecution, sends for the doctor, and for his sister-in-law, and for the best male friend of the family, and do not forget that, because it throws a great light, in my submission to you, upon the whole of the events which took place right away from August, 1920, to this unfortunate woman's death in 1921. We are bound to deal, as you will, with a case in Court as we would with our affairs outside. Fortunately, when we come into a Court of justice we do not leave outside that Court the common sense that years of experience have imbued us with. Is not it at any rate in the balance, if we come to consider the matter—a matter that weighs much in the balance of innocence—that a man who is alleged to be a poisoner should send for the doctor, and later, in February, you remember he said, "Come and keep your eye on her"; that is what he said to Dr. Hincks—"Do you think she must have a nurse"?—"Certainly," and everybody who was brought into contact with this woman and who was brought forward by the prosecution is alleging she was poisoned by the man who was doing all that. Is not it again apparent, is not it again a matter which is tremendously against the theory of the prosecution? She came away from Barnwood, as you know, on the 22nd January, and a great point was made of that—I do not know if it is still going to be made, for I am not in the fortunate position of being able to tell what the Attorney-General will say when he comes to sum up the case for the prosecution. I have merely to anticipate what he will say to you; but I venture to think that what he does say to you will be a good deal different from what he said to you on Monday week when he opened this case. I think you will find some of those points that he made have disappeared, and that some of the motives suggested will not be in existence. To take an example, I shall be interested to hear, as no doubt you will, seeing what the Attorney-General said in his opening—1st August, copy will; 4th August, Major Armstrong buying weed-killer; 15th August, Mrs. Armstrong becomes ill, and so on to the time of the 22nd August, and you will remember that the Attorney-General said, "Mark the importance of those dates." We do, and we find that on the 4th

August it was not a purchase by Major Armstrong at all of weed-killer, but a purchase by his gardener, and the whole of the purchase made on the 4th August had been used by the gardener, excepting a small tin. It may be interesting to see whether during the course of this case evidence will have come out which will have somewhat altered the way the case had to be presented to you. The case I have presented to you to-day you well know is the one I presented to you on Monday morning. The case I have presented to you to-day is not altered one scrap or one iota from the case I presented to you on Monday morning. I wonder if the Attorney-General will make a point about Major Armstrong getting his wife away? The Attorney General said, "Of course, he wanted to get his wife away, and not on leave, for if she were on leave the authorities would be making inquiry if she died in the institution, into her death." Nothing of the sort. All that Dr. Townsend would have wanted to know was that a medical man had attended the deceased, and would be able to give a certificate.

Now I am going very quickly over the time between the 22nd January and the 16th February, because the only importance of that period of time which affects us is when Major Armstrong on the 6th February called on Dr. Hincks and said, "Keep your eye on my wife and see how she is getting on." You are now within a few days of the 16th February, and can there be any doubt that Mrs. Armstrong had in her mind suicide? She was talking of suicide to Nurse Kinsey, and as long as six months before Mr. Chevalier formed the opinion that she was likely to commit suicide. It is no stretch of imagination here if you accept the case for the defence, but it will be a very large stretch of imagination if you accept the case for the prosecution. I am not coming here and putting this case before you as that of a strong-minded, strong-willed person who never showed any symptoms of suicide, but the history of the case shows that you are dealing with a woman who was at this time off her head, and who, instead of being a woman of strong mind, had just come out of an asylum and was at this time talking of suicide. Where is there anything to wonder at that she did on the 16th February in fact commit suicide? There would be a great deal to wonder at if Major Armstrong had been trying to poison her. It would be against all the facts surrounding the evidence of the case, and against all the theory given by the different witnesses of the affection between them—it would be against his calling in the doctor and against the care he was taking of her. All those things are never consistent with his having poisoned her, but in my submission the whole history of this case gets her into a position in which she was likely to commit suicide. You have to rely, as Dr. Ainslie said to-day, upon two directly contrary accounts of those last few days. You

have to rely on the account of Dr. Hincks, perfectly honestly given, of course, and given as the result of being able to see in his book his attendances on her, and symptoms; but he has to rely on his memory for other matters, and you have to rely on the memory of Nurse Allen. Do you think Nurse Allen was correct when she said from 15th February Mrs. Armstrong never got out of bed? Do you think you can rely on that? Do not think I am suggesting that she was wilfully misleading you, but she, like you and me, is a human being with a great deal of work to do and may forget. Are not you satisfied from the evidence put before you that 13th February was when they thought at the time it was a mere bilious attack, and that Mrs. Armstrong was so much better the next day that she was out? Have you got any reason to doubt Mrs. Price, the bank manager's wife, who came yesterday and told you that she sat in the garden, or outside the house, for three-quarters of an hour; that she found her outside on the verandah and left her outside? She says she remembers it, because that day she had a new costume sent home, and that upon that day she wore the costume up to Mayfield. Then Mr. Vachell, who cross-examined her, tried to test that, but he found how strong it was. She said, "When I got home that night I sent a cheque for the costume," and she produced a cheque of 14th February, and produced the receipt dated the next day, the 15th February. She said, "Not only do I fix it from the fact of receiving my new costume and having my receipt, but I also remember that she died on the 22nd February," and that she then said, "Eight days ago I was sitting with her out in the garden." And Mrs. Price's evidence does not stand alone, because Miss Pearce told you that she had reason for remembering it, as it was Valentine's Day, and she remembered that on Valentine's Day Mrs. Armstrong was out in the garden. Where does the case go to, put by the Attorney-General, that for nine days this poor woman was suffering from her last illness? On the 13th February she was sick after that meal, and on the 14th well, and again downstairs. Of course, the opening of the Attorney-General or the evidence of Nurse Allen and those who visited her not only is that she was downstairs and out in the garden on the 14th, but the evidence of Major Armstrong in the box was that on the 15th she was downstairs, and I think he said on the 16th she was down in the morning, and, he thought, Pearson, the little boy, and then it was she was taken ill after lunch. Therefore she was in the position on that morning, the 16th, to be in possession of arsenic in the house, and the position is that she could have got it, and that she was of suicidal tendency that day. She came out of the home in the hope of becoming a normal member of society again, and had gone back again, and she was suffering again from neuritis, and, as far as her head was concerned, suffering again from delusions. Are you going to say in the face of that

evidence that she did not take that poison herself? I have not to prove that she did; but do you not think, when I asked you to deal with the probabilities, that the probabilities are very strong indeed that she did in fact take poison on that day; and if she did, the doctors I have called (all three of them) say that the symptoms from which she suffered then up to her death were consistent with her taking one large dose on that day? You well know that Dr. Ainslie and Dr. Steed are honest men, and those doctors tell you that as the result of their experience (and it is all very well to cross-examine them as to how many cases in their life of arsenical poisoning they have seen; and I put it then to Dr. Hincks, and he fairly admitted it was only one he had in the hospital), from their knowledge as medical men, the symptoms from which Mrs. Armstrong suffered are consistent, in their opinion, with what we allege existed on the 15th February, and not consistent with the story of the prosecution.

The only thing the prosecution say is this, "There he is standing in the dock, and we charge him with murder, and we say he did it by arsenical poisoning, because he had arsenic in his house, but we do not know when he did it or how he did it, or the motive, or the means by which he administered it. We leave all that to guess. We say he had arsenic in his possession and could, if he wanted to, murder his wife." I submit on the whole story it goes to show that she was not unlikely to commit suicide. I do not put it higher than that. When the learned Attorney-General was opening his case he said, "Who could have done it, and who had a motive for doing it?" and he pointed to Major Armstrong. I would say, in answer to "Who could have done it?" Mrs. Armstrong could. What does the evidence show—that she was in a condition of mind to do it, and Mrs. Armstrong from her general condition of health was likely to do it. Who could have been in possession of the arsenic for the purpose of doing it? Mrs. Armstrong. What was the motive for Mrs. Armstrong to do it? She had been in the home and was recovering, and then returned home, and her state of health we suggest then was the motive. Let me deal with this motive for your consideration. I do not know whether you waited to see whether the Attorney-General was going to suggest that the will was not Mrs. Armstrong's will at all of July, 1920. No doubt you waited to see if there was any cross-examination as to her will. Not a word. What does the whole suggestion come to? If it is her will—and there is no suggestion it is not her signature to the will; according to their case she was perfectly well on that day, the 1st August. They cannot have it both ways. She was perfectly well, and, according to their evidence, their case is that Mrs. Armstrong at that time was an extraordinarily sensible woman of the world. What is the suggestion of motive? If she was perfectly fit at that time and absolutely sane, it then will stand, but (I am not even

suggesting that it was not her will and her signature) if it is her will she knew of the will she was making, did she not? And where does the point of the Attorney-General go to, that he was in such a hurry to get it signed that he did not get both the witnesses together—that they were in a hurry on the 8th July, and the evidence is that it was signed when they were in the room together, and that Mrs. Armstrong signed it, putting her hand on the paper, and Mrs. Armstrong said, "There is Lily Candy, she can come and sign it too." That was set up before you for the want of a better motive. I do not want to use any extravagant terms about such a motive. What do you think of it? It is this, that there was some motive, and that Major Armstrong wanted to get rid of his wife, and that the motive was shown partially in the production of that will, a will made and duly signed by her at that time (and they say she was perfectly sensible), and that it was signed by Miss Pearce, Major Armstrong and Mrs. Armstrong being both present; and remember the will was made by Mrs. Armstrong, who had told her sister in October, 1919—eight months before—"I am thinking of altering my will, because I have not left my husband enough," and yet that is put up as some sort of motive, because, of course, the prosecution realise perfectly well that they are not going to present a case to twelve men of the world and say, "Here is a man who murdered his wife," unless they can show some motive. I leave the motive for you to deal with.

The second part of the motive is, in my submission to you, more ridiculous than the first, and it is all founded on an entry in a diary—an entry "ask," and then two initials. Of course, I do not pretend to have experience in these matters, but if any man has ever to make a note in his diary of something he would not wish to forget, he would not want to make a note that he was going to propose to some young lady. That is the suggestion in this case, that he made that note, although he had made up his mind to propose to a young lady, lest he should forget it; and to show how ridiculous is the suggestion, they say that shows he wanted to propose marriage to that lady; and, forsooth, lest he should forget it, he wrote it down. And what do the defence say about it? The reason given by Major Armstrong is that he was very worried as to who was to come and keep house for him when Miss Pearce went away, and that with that highly respectable lady (you saw her in the witness-box, and there is no suggestion of her being a flighty girl) he entered into correspondence. She is a highly respectable lady of middle age who came here into the witness-box. She was a friend of the family, and Major Armstrong says, and I suggest it is reasonable—"Being worried about who I was to get to come and keep house for a certain period of time, I made a note to bring it to my mind that the first time I saw that lady I should ask for her advice upon it." That is

what he says, and is not it perfectly reasonable that he should put down the initials to remember to ask her something? It is but reasonable; but to say he put it down as they suggest is puerile, and it is an insult to your intelligence to put that before you as one of the motives, that he wanted to get rid of his wife because he was going to propose to this lady. Gentlemen, what do you think of it? What do you think of all that being seriously put before you by the prosecution here as being part of the motive for which this man was going to murder his wife?

Now we come to the October. I can deal with the Martin affair in a moment. I am going to use no hard words about Mr. Martin. There is no point in using hard words, and I am never quite sure that it is fair to use hard words, especially when the person against whom it is said has no opportunity of answering them; and, therefore, I am content to leave Mr. Martin to your judgment. You saw him during this case, and you can form your opinion of his evidence in the box. I do not desire to say anything harsh about him, and I leave it to you; you will form your opinion about it. What is the story there? The story there is (and my submission to you is that it is as ridiculous a story as that in relation to Mrs. Armstrong) that a solicitor who has lived to the age of fifty-three, and has had, I suppose, thousands of letters from other solicitors complaining about certain things not being completed—an everyday occurrence, I suppose, with solicitors—and the suggestion is that because there were proceedings about this Velinewydd estate he wanted to poison Mr. Martin. We say again, if this defendant wanted to poison Mr. Martin, the only place for him is an asylum. Just one moment to deal with the facts on that day. Undoubtedly Major Armstrong arrived back before Mr. Martin arrived, but from the moment he arrived back, except for the moment when he was walking through the house and hanging up his coat in the place which was just near a door into the garden, just walking through that hall, that is the only moment that he was in the house before Mr. Martin arrived after the tea was laid. MacGeorge is in conversation with him until the time Mr. Martin arrives. Where was the opportunity, first of all, even if a man desired to do so, to place (I do not care whether it was the scone, bread and butter, or currant loaf, or cup of tea) arsenic in it? There was no opportunity that has been proved at all. You are not going to search about and say "perhaps this might have happened" or "perhaps that might have happened," or "perhaps the other might have happened"; you are going to look and see what the evidence is, and there is no evidence to show reasonably how; there is a good deal to show that he had no opportunity before they went into that tea for him to have put arsenic upon those scones. As I pointed out the other day, (you will have it pointed out by my lord to-morrow, no doubt), it is only for the purpose of assisting, it is supposed to assist you to

come to the conclusion as to whether or not he murdered his wife that that evidence is put before you. You are not trying it, you have not to give a verdict upon it; you have had to listen to a great deal of it, but you are not trying it; you have not to say if he did it or did not. You have to take it into your consideration and to say to yourselves, "If we are satisfied that he did this, then we have not to say that he murdered his wife; if we came to the conclusion he attempted to murder Mr. Martin, then, of course, we shall have to very seriously consider whether he did not murder his wife." That is why it is put before you, and it will be put much better for you by my lord what the law is; but I venture to say in my lord's presence, that is putting it quite shortly in very ordinary language, the way in which you have to consider Mr. Martin's evidence. You have to be satisfied that Mr. Martin was suffering from arsenical poisoning. There is nothing to show that he was suffering from arsenical poisoning, except the analysis of 1/33rd of a grain in his urine, because all the doctors for the prosecution or the defence say, we are agreed upon that, that the symptoms from which he suffered were not like what they saw in Mrs. Armstrong's case, they were consistent with gastric enteritis, gastric influenza, or whatever you like to call it, they were consistent with a natural complaint. I dare say some of us have suffered from much the same symptoms in the course of our lives; I hope none of you have. At any rate it is consistent with natural illness, and it is only 1/33rd of a grain of arsenic in the urine which shows that he was suffering from arsenical poisoning. So you have to be satisfied that he was suffering from arsenical poisoning. Then you have to be satisfied upon the evidence that such arsenic had been administered to him by Major Armstrong, otherwise the whole of that evidence is of absolutely no value at all. In my submission that analysis which was made of that urine was not satisfactorily made, when you are dealing with questions involving such issues as this case does. There are ways in which that arsenic could have come into that urine, many ways in which it could have come into that urine, except through the agency of Major Armstrong. Gentlemen, if you come to the conclusion that there is no proof here that Major Armstrong administered that arsenic, then you ought to leave the whole of the Martin case, and my lord, I am sure, will tell you the same thing; unless you are satisfied that the arsenic was administered by Major Armstrong to Mr. Martin, and that it could not have come into that urine in any other way except through Major Armstrong, then you ought to leave the Martin incident out of consideration and deal with what you are trying, the question of the poisoning or otherwise of Mrs. Armstrong.

Major Armstrong did what he was not obliged to do. He did what a few years ago he could not have done, he went into the witness-box. It was quite open to him to have said as many a man

does upon a criminal charge, "You prove your case against me and I am quite content to remain where I am and to rely on the statement which I have made"; but he went at his own desire, and strong desire, certainly with my approbation, into the box at the earliest moment during this trial that he could. It is quite useless, of course, in a case of this sort to go into the whole of a defence like this at the Police Court. Once it was clear that this case had to go for trial there was no great object in prolonging it there, and it was not prolonged; Mr. Matthews did not cross-examine the expert witnesses; but at the earliest moment here Major Armstrong went into the box and told his story. You are the judges, and you only, of facts in this case; you will receive, of course, the law from my lord, but, as far as facts are concerned, that is why you are here. In criminal cases we still have trial by jury, in civil cases to a great extent trial by jury has disappeared. Trial by jury means that you, and each of you, have to try the case as regards the facts, receiving the law as it applies to the facts from the learned judge, but yours is the responsibility, and yours alone, to deal with the question of fact. Did not you think that Major Armstrong gave his evidence in the box like an honest man? Do not you think, and I put this before you as strongly as I can, that he emerged from four hours, I think it was, of cross-examination by the Attorney-General absolutely unscathed? His story when he came out of the box was the story that he told when he first went into the box. His story at the end, after all that cross-examination, question after question—of course, one welcomes the questions when the man is being tested; tested as no man has been tested before—I will not say no man has been tested before, but no man has ever been tested more thoroughly before than Major Armstrong was during that four hours. Was there any difference in his evidence at the end; was not he at the end, in the beginning, and in the middle, what you would expect an honest person to be? It was only in the last few minutes that he was in the witness-box that he was asked a number of questions by my lord with which I am going to deal, that there was anything on which I need comment. Remember when the Attorney-General is cross-examining, he is not just cross-examining on the spur of the moment in Court; he was being cross-examined as the result of a great deal of anxious thought and consideration; every matter upon which it was thought he should be tested, asked questions, he was asked upon. I venture to think, it is for you, again remember that it is not for me to prove his innocence, but in my submission to you Major Armstrong was an excellent witness.

Now, a word or two about the white arsenic. My lord said yesterday afternoon that it was difficult to see how the finding of that white arsenic affected the case, and in which way it affected it, whether it was for or against. Gentlemen, I ventured to say then, and would make it quite clear, if it is not already clear to

you, how it does affect the case. The evidence for the prosecution has always been that Major Armstrong had purchased coloured arsenic from Mr. Davies—coloured with charcoal. Their evidence was that the arsenic bought in 1919 was coloured, that the arsenic bought in January, 1921, was coloured. Upon Major Armstrong on his arrest is found a little packet of, not coloured arsenic, of white arsenic. I submit to you, gentlemen, this is a most extraordinary instance showing the very great danger of evidence upon which juries might even convict a man of murder sometimes. Supposing that packet of white arsenic, which undoubtedly was bought from Mr. Davies (which is admitted now by the prosecution to have been found honestly and properly by Mr. Matthews, and not to have been put there by anybody, but left there) had not been found, this case to a very large extent would have been made to turn upon, "How did you, Armstrong, become in possession of the white arsenic which was found upon you?" He would have said in the box, "I purchased that white arsenic from Davies," and the Attorney-General would have said to him, "That cannot be true; produce some of it; it cannot be true, because Davies has sworn that the only arsenic you ever purchased was coloured, and all we have found on your premises was coloured arsenic," and it would have been said, "It is all very well for you, Armstrong, to say you were buying your arsenic perfectly openly in your own native town where you could be traced; you must have gone outside to make a secret purchase of arsenic," and they would have said, "By great good fortune upon you we have found some of it, therefore we know that you bought it elsewhere." How would you have dealt with that case? I say it is an extraordinary instance of sometimes the great danger upon which even a man might have gone to the gallows. There he would have been found with white arsenic upon him; the whole of the evidence for the prosecution would have been, he never purchased white, he purchased grey, and it would have been useless for him to have stood in the box and said, "I purchased it from Davies"; and imagine, just put yourselves, if you will, into the position that you would have been in then. This man in the box, white arsenic is upon him; his story, "I purchased it from Davies. I purchased all the arsenic I have had from my local chemist where it could be traced at any moment; I am no poisoner." And on the other side, "You could not have done it. This is the only bit found. Davies swears, and so does his assistant, that it was mixed with charcoal; tell us where you bought it?" And the prosecution would have said, "If you wanted white arsenic for the purpose of destroying plantains or dandelions, why did you have to go to Birmingham or Manchester or London," or wherever you like to suggest, "to buy it; why did you not buy it at your local chemist?" And would not you, gentlemen, have been in grave danger of saying, "We do not believe this man about this; we do not believe that he purchased that white arsenic from Davies, he

must have gone elsewhere, and if he went elsewhere to buy his arsenic why did he go elsewhere? "And you would have been in grave danger of saying he went elsewhere so that the arsenic could not be traced to him, because he wanted it for the purpose of poisoning his wife; and might you not have allowed that evidence? And you know in your own minds the effect it would have had upon you if the case had been put in that way, if this other white arsenic had not been definitely found. You would have been in very grave danger of saying, "We are satisfied that he bought that elsewhere and not from Davies, and if he did, of course, he must have bought it somewhere else, because he had some ghastly motive behind." That is the importance of the finding of this white arsenic. That is the importance of it, because it may, as I say, and as I ask you to say to-morrow by your verdict, it may well-nigh have saved this man's life.

It is the most dramatic thing which has happened in any case of this sort within living memory, because one can imagine what a terrible miscarriage, what a ghastly miscarriage of justice might have resulted; you quite honestly saying upon the evidence, as you would have been entitled to, "Well, the evidence all goes to show that he never bought white arsenic; what was this little packet doing upon him; where did he get white arsenic; why was it he went elsewhere to buy it?" You might have said, "We cannot believe this man upon his oath," and you might have convicted him because you could not believe him upon his oath. If you had, we now know your verdict would have been a wrong one. That is why I implore you, as far as I am entitled to, to weigh every scrap of evidence in this case, weigh it as carefully as you can, and remember that even in those things which seem strongest against a man, sometimes there is nothing. How do you think I should have dealt with the case if that white arsenic had not been found? Gentlemen, if that white arsenic had not been found the probability is, that you would have said to yourselves, "That is the thing we cannot get over, how was he in possession of that; he did not buy it from Davies; if he did not buy it from Davies, as he bought everything else from Davies, he must have bought it somewhere else, and must have bought it for some sinister purpose."

I cannot be too grave upon this matter. You all appreciate my anxiety to make it clear, and, after all, my anxiety is nothing to what yours must be. I have only to put the case before you; you have to determine it. Does not that bit of evidence and what might have happened throw a great flood of light upon the care which has to be bestowed by juries upon evidence and not say, "We think this and we think that"? There would have been definite evidence; white arsenic found upon him; definite evidence that he never bought it in his local town; you would not have been asked to deal with the case upon surmise, suspicion, or anything else. It would have been said there is a definite, clear-cut issue.

If that may fail, and if you might have been led into convicting this man upon such a suggestion as that, think of the danger of convicting him upon such a case as is put against him here.

At the end of Major Armstrong's evidence yesterday he was asked a number of questions as to why he had not at first told the actual story about this white arsenic. Let us try and deal with this, not in any pedantic way, but let us try and deal with this as the result of years of experience either of appearing in cases or of trying cases, let us deal with it from the ordinary point of view of members of the public, of yourselves. You gentlemen, with the positions which you have made for yourselves in this county, are suddenly confronted by police officers, a number of them—I do not make any criticism of this, although one occurs to one at once, and no doubt occurs to you. They start by getting what they call a voluntary statement, as they are quite entitled to before they arrest you, for the purpose of getting an explanation and clearing things up; they are entitled to say, "You make a voluntary statement and we will take it down." Directly they have got the voluntary statement in this case they arrest the man. It does not look as if it had been very much for the purpose of clearing the thing up; they did not consider the statement or test it; they arrested him; I do not mind. After they have arrested him, about an hour after, Major Armstrong is looking through his business letters. Do you not think that you might have been under the same misapprehension as apparently he was, that if a police officer said you can look through your business letters, do you not think it is quite likely you would have thought he meant all your business letters, unless he particularised special business letters? Major Armstrong thought he meant all the business letters, and found there caught up, you remember the expression, caught up by an envelope, this little packet. He says that he then realised that he had some of that white arsenic left. At that time, between the time when he made his statement and finding that, he was under arrest. It is very easy to be wise, and very easy to criticise what a man does under those circumstances, just having been arrested. Imagine the position. The clerk to the justices, who, as one knows, and I do not say this under any sort of feeling of criticism of justices, but the clerk of justices is the most important person at Petty Sessions—he advises the judges. Here is the man, who has been in the position of administering justice, suddenly arrested and taken, I was going to say to his own police station, so it was, to the police station of which he had had some sort of control. Of course, it is quite easy now to say it would have been far wiser to have said at once, "Oh, I beg pardon, I have made a mistake in that voluntary statement, very sorry, I want to correct that." Of course, it would have been much wiser to have said it, much better

that he should, but I cannot see what the criticism of it is. If Major Armstrong had been trying to deny that he had got arsenic upon his premises at all, then I could understand it. He knew they were inquiring about arsenic, and told them where they would find one packet. He made a mistake and called it the 1921, and it was the remainder of the 1919 packet; that is quite clear by the admission made by the Attorney-General about the finding of this arsenic by Mr. Matthews. He had not been trying to deceive them that he had got arsenic. Where is the point that he had only told them of one lot and not of two? Once they got him in possession of a lot of arsenic, that is quite enough. I should think nobody who has any common sense would ever buy arsenic again to make weed-killer. I do not know whether any of you ever have; nothing in this world would induce me to buy arsenic. If you happen to have a member of your family who, unfortunately, has died, and it is found that she has arsenic in her body, if you have arsenic you will be put in the dock. He was not trying to deny that he had bought arsenic, he was admitting that he had bought arsenic. Of course, he ought to have said, "I have made a mistake, and I have not told you all about it," but are you going to say that because he made a mistake in not saying, "I have made a mistake in what I said just now; I ought to have told you; I suddenly realise, of course, I had some more, and it is in the drawer," are you going to say because he did not say that that he is guilty of this offence? If he was denying arsenic at all then I can understand it; then they would say, "You wanted to keep the police without knowledge that you had got arsenic, and you hoped they would not find it." That is not the case; he has told them that he has got arsenic and where it is. Where is this wonderful point that he made a mistake in not doing what would have been much wiser of him, telling the police, "I have made a mistake, I am sorry. I will tell you all about it now"?

The next day he sees Mr. Matthews, and Mr. Matthews from that moment takes charge of his defence. No higher compliment can be paid to any solicitor than the compliment my lord paid to Mr. Matthews to-day about the whole of the conduct of this defence. They thought the police had got the white arsenic; Mr. Matthews goes up there, pulls open that drawer about 4 inches, then it catches; you would think there was a stop on the drawer if you did not know. It is not as if it was a drawer you had opened every day of your life; you would think there was a stop, as there often is upon these bureau drawers; you pull it out, look in it, nothing to be seen. So they imagine that the police have got the white arsenic. I do not think any criticism is levelled against Mr. Matthews for not having set up the defence of suicide, and not cross-examined about the white arsenic now. If any such criticism is to be made, do you think it is part of the duty of a solicitor for a prisoner to cross-

examine the police to show that there was white arsenic when they have had every opportunity of searching, and ought to have found it? Of course it is not. When you are defending a man for a murder at the Police Court it is not part of your duty to say to the police, "Although you have searched heaps of times you do not search thoroughly. I will go and search for you." If that is the way which is going to be suggested people should defend, I do not think many people would be employed at Police Court proceedings. Of course, it was not his duty, and it was only when he had pressed Mr. Micklethwait over and over again for a list of what had been found, and it was only when he found they could not find this arsenic, that, happening to be at Mayfield for another thing altogether, he says to the clerk, "This is the drawer where that arsenic was supposed to have been," and then for the first time put his hand right at the back. I wonder what you think of that evidence of Mrs. Price, who said she pulled it right out and looked at the back. The drawer which she pulled right out is the one where the key was, where the label was; that must have been the drawer she pulled out. There that white arsenic was found. Gentlemen, do not be too hard on Major Armstrong because he did no do what a wise man would have done. A wise man would have said, "I have made a mistake; I will tell you all about it." I hope I am not wearying you by putting these matters, but I am sure you will consider it all when you come to consider your verdict. An hour more or less to you and me in this trial is a mere incident; it is a drop in the ocean, because you have to determine whether a man is to live or to die.

Now, what is the story about the packet of white arsenic? Things are apt to assume a very different appearance and very different proportions when you get into a Court of justice. You have to realise that you are dealing here with an amateur gardener; many of us are amateur gardeners, and you are dealing with a man who likes making experiments. I thought at one moment there was going to be a point made against him that he writes down water as H_2O. He likes to make experiments. He says he divided that arsenic into two halves, one-half put away, the other used partially for experiments in that glass, so that he could see the effect of the solubility of arsenic and caustic soda, and the rest he divided up into little packets. Like that point I put to you just now as to what that might have been if it had not been for the finding of that white arsenic, look at this—it was as cheap a way of destroying dandelions as one could possibly imagine. You could destroy sixty-six for a penny if it worked every time. At any rate you could dose, to use my lord's expression, sixty-six dandelions or plantains for a penny. A man who has nothing on earth to do in the afternoon, who has an instrument by which he had been putting poison down to the root of the plantain, amuses himself in experi-

ments by making a hole and dropping these little proportions of arsenic down to the root. That is tested quite properly, I am not complaining, by the prosecution, and they say, "Why do it up into little proportions, why not take the lot out and take your penknife and empty it in each time"? It might have been as good; I do not know. I suggest it would not. You would have to make your hole, carrying your packet all the time; arsenic is stuff which blows about very easily, and you would have the whole packet in your hand the whole time. It might have been as easy, I do not know; but it seems easier to divide it up into little packets beforehand, so that when you have made your hole out comes your little packet; no fear of spoiling the lot, no fear of it blowing away; you have your little packet which you can use in the hole which you have just made. In my submission, it is a more sensible thing to do than to carry a packet about and drop it in from the end of a penknife from the top. That is what he says he did; is there any reason to disbelieve him? There is no sort of evidence that he did not. That man is just as worthy of being believed in the witness-box, no more worthy to be believed, as any witness for the prosecution, and he says that is what he did, and there is nothing in the world to contradict him. Is not that what he did? Having made a lot of packets and put them into the inside pocket of his coat, he thought he had used the lot, and he wears that coat again on this particular Saturday in December. He has got all his letters in his pocket, and then he finds that one little packet is left. Of course, like the point that might have been made against him, "Where did you get your white arsenic," if it had not been proved by the production of this packet that he bought it from Davies, it is quite easy to say, oh, yes, but that little packet happens to have contained the right amount to kill anybody. As I say, nobody is safe in possession of arsenic, because if you happen to be arrested, and you have some in your pocket, it is going to be said you are carrying it about for the purpose of poisoning somebody because you do not like them. That is what it comes to. Did not he satisfy you that his evidence upon that was the truth, that he had got that in his pocket left over from these little packets, which he had made, I think, in June, and had used at that time.

I think I have really dealt with all the material matters that I need deal with. I hope I have. I have tried to. There were all sorts of dates which occur to one's mind, all those points which were made against Major Armstrong—"You would not be buying arsenic in January because it would not be time to put it on the weeds." Then, "If you did buy it on the 11th, why did not you use it before the 22nd, when your wife came home?" There, again, there was an extraordinary bit of luck; it was purely by my looking at the diary which Mr. Lloyd handed me yesterday, when I was wanting to look through the 1920 diary, there I saw the only Saturday between the 11th and the 22nd was the 15th, and I saw

a note against it "In bed." There was the answer. I was wondering why he had not used it upon that Saturday afternoon, and by pure good fortune, happening to look at that diary, I saw (I think you have seen it, my lord has, and you will see it) that the only Saturday between the 11th and the 22nd was the 15th, and then he was in bed. When you find one thing after another turn out in that way in the case, does not it make you hesitate? There was yet another point being made—"Buying this stuff on the 11th January, wife does not come home till the 22nd, why did not you use it?" The man says there was only one Saturday. "Well, why did not you use it on that Saturday?" And by nothing but fortune one finds that entered up in the diary is the fact that upon that day, the day before and the day after, partially he was in bed. It shows the great danger of accepting things which look to be quite good arguments when you find they are answered on the moment purely by good fortune—a thing one might never have looked at—purely by good fortune the point is answered.

That is what you have, in my submission, all through this case; all those points which looked as if they had something in them, taking them one by one (I tried to deal with them as the evidence came along), one by one they have disappeared. I ventured to take them on Monday, and I have tried to the best of my humble ability to deal with them fully and properly. Having done that, I have, as far as I can, discharged my great responsibility—a responsibility which, believe me, is a terrible one, which has given me the greatest anxiety for weeks, and it is now finished, as far as I am concerned, and that responsibility which I have borne passes on to you. You have each one of you the responsibility. It is no use feeling that it is all together, but you, each one of you, one as much as any other, has from now, from the time that you have heard the Attorney-General and the time that you have heard my lord, the responsibility of the future of Major Armstrong. The time is very near when you will troop out of this Court to consider your verdict, a verdict which, when you have determined upon it, will be read by people who merely take interest in sensations and say "guilty" or "not guilty," and pass on to the next sensation. But for the friends of Major Armstrong it means, I hope, his freedom; for his children the restoration of their father to his home; and for Major Armstrong it means life.

The Court adjourned.

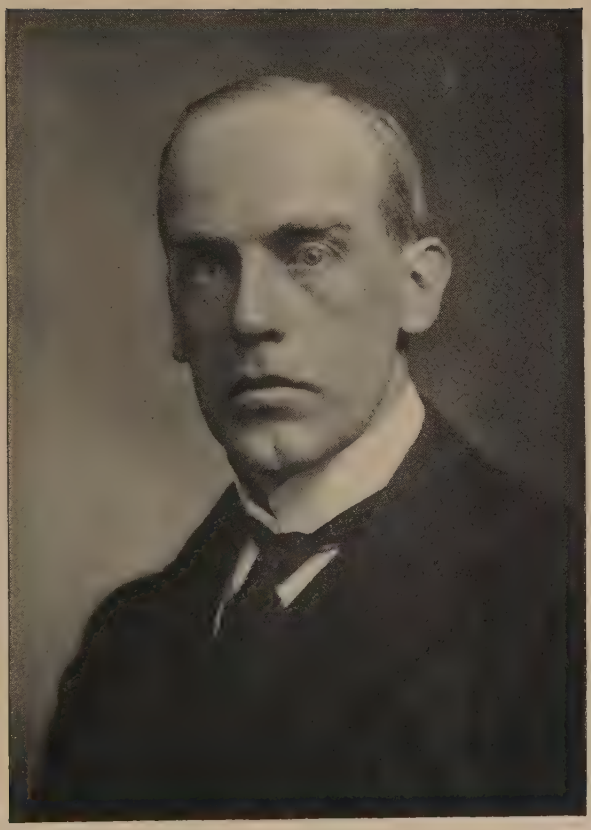
Tenth Day—Thursday, 13th April, 1922.

Closing Speech for the Crown.

The Attorney-General—May it please your lordship—gentlemen of the jury, it is ten days or more since I had the opportunity of presenting to you in outline the features of this case, and I realise the strain that has been put upon you during the whole of that ten days, and I realise that you must have been feeling both tired, and, well, perhaps even reluctant to listen to a long speech from me. On the other hand, I know quite well that each one of you will wish to hear me present the case for the prosecution, and I doubt not that each one of you will give me that attention which has been such a marked feature throughout the conduct of this case.

May I say at the outset that I shall endeavour to compress my observations, and to compress them within a reasonable limit having regard to what I have to say; and I may say that, with the assistance of my learned friends, to whom I owe so much, the adjournment last night has helped me to focus, and I hope compress, those observations within a reasonable limit. May I also at the outset of my speech make one or two more observations. It is a matter of pride and satisfaction to us all that the prisoner at the bar has had the opportunity of securing the great services of Sir Henry Curtis Bennett. It is a pride and satisfaction, because no man is more able—none a more powerful advocate, and none a more able and devoted servant of the cause he undertakes, and it is no small satisfaction to me in the responsible position I hold in this case to think that the prisoner's case has been presented to you in a manner worthy of a serious and difficult occasion; and it is, therefore, a matter of pride to me, and to all of us, to think that under the system that prevails in this country a prisoner charged, as the prisoner at the bar is, is given the opportunity of having great services rendered to him and his case presented with all the feelings and emphasis that my learned friend is so capable of, and that that position is afforded to a man standing where the prisoner does.

My learned friend said that in the course of the lapse of time since I opened this case my case would be widely changed. Yes, it has been changed, and, I think, in three or four points which have strengthened it, and made it easier for me to deal with, and have enabled me to present it more forcibly to you than I did on Monday last week. Let me also say that the prisoner is entitled to your reasonable doubt. I agree that the prosecution have to prove their case with reasonable certainty. They have to give you the highest degree of certainty. The prosecution are not



The Attorney-General, Sir Ernest M. Pollock, Bt., K.C.

(Photo. Elliott & Fry, Ltd.)

bound to give you absolute demonstration, for I doubt whether in any case at all it is possible to give absolute demonstration without the danger of want of veracity on the part of some witness; and at the same time the certainty you will require is one on which we act in our ordinary dealings in life, a certainty which forms and determines the actions of each of us from day to day; and in this case let me remind you that it is a poisoning case; and let me at the outset also remind you that I doubt whether throughout the history of the world the poison cup has been seen to be administered and known to be the poison cup administered. You will have to act on evidence sure and certain in other cases, but in a case of poisoning you will always find a subtlety and an endeavour to cover up the tracks of so wicked and sinister a crime.

I am going to address you now on the matters I have to put before you. It has been the sincere wish and earnest endeavour of my learned friends and myself not to press the case unfairly or unduly—to endeavour to focus your attention upon what is relevant germane to the charge before you, and that endeavour has been maintained throughout the case, and I will endeavour to fulfil it now; but I may claim I think that that endeavour has not been wholly unsuccessful, and that by measured language and by thoughtful—yes, perhaps sympathetic—consideration for the prisoner, we have striven to be fair.

Now I must come to the outstanding features of the case which have altered since I opened the case to you last Monday week. Then I did not know, as I do now, that it is admitted, as it is now, that Mrs. Armstrong died of arsenic. That is admitted. I did not know then, as I do now, that it is admitted that during the last four days of her life she was stretched upon her bed, incapable of feeding herself or of taking any nutriment or substance whatever; and I did not know then that no reliance would be placed on any question of her taking homœopathic medicines. Indeed, through some days last week I thought by some questions that my learned friend put—the question whether the cupboard in which the medicines were kept on the mantelshelf would be within reach of the bed—the question put whether an outstretched hand from the bed could reach the cupboard, and so on, I did, perhaps wrongly, surmise that some point was going to be made of the homœopathic medicines being taken. That third point has gone. And, lastly, I did not know, as I do now, that in January, 1920, the prisoner was possessed of some 2 ounces of arsenic, the balance of what had been bought in 1919. I did not know that that remained in the cupboard in the study. I had thought then that the arsenic of which the prisoner had possession was the arsenic that was bought in 1921, which I thought was represented by that portion of coloured arsenic. But I know now that, in addition to the small packet that was found on the prisoner, he had not only the 2 ounces of arsenic in August that lay in the cupboard, but that there was found upon him the little quantum of arsenic folded

The Attorney-General

up in paper—3¾ grains; I know now that, in addition to that, he had some white arsenic which he bought in January, 1921, and more than once Sir Henry, as he was entitled to do, in his opening speech and closing speech, poured something of scorn on the suggestion made that weed-killer had been purchased on the 4th August, 1920. Had I known as I do now that in August, 1920, there was this 2 ounces lying in the cupboard; had I known then as I know now there was white arsenic purchased in 1921, I would not have made the remark which has called forth, twice over, the observations of my learned friend, but if I felt sure it was to be attributed to me, may not it be laid to the fact that I did not know until it was revealed by the prisoner—I did not know the circumstances under which we now know he had two lots of arsenic in his possession, as well as the little packet in his pocket. On those two salient points the position of the prosecution is enormously strengthened, and what you have to inquire is this, agreed that Mrs. Armstrong died of arsenical poisoning in 1921, how was that poison administered to her? "Suicide," says my learned friend. That is really the central feature of this case. My learned friend also suggested, and he is entitled, of course, to make the suggestion, and every suggestion that could be made by the counsel in sympathy with the prisoner ought to be made, but he suggests that we had worked back in this case, and that when we found the arsenic in the body of Mrs. Armstrong we worked the case back and got it up, and I think my learned friend said that it amounted to this, "You found arsenic in the body, and you found arsenic in the possession of the prisoner; put him in the dock and charge him on suspicion."

Gentlemen, that is not our case. What I do, however, put before you is that Mr. Martin had an illness, an illness somewhat inscrutable and difficult to account for. The suggestion is made that Mr. Martin's urine could be examined. It was examined, and found to contain, not a trace but an appreciable amount of arsenic; and then, and then only, it was thought, "Yes, what were the symptoms of which Mrs. Armstrong died?" And then the order was made to exhume the body; and the body which was to have lain hidden for all time in the cemetery at Cusop was exhumed, and a startling confirmation was then found that in that body there was more arsenic than Mr. Webster had ever found in a body before. There was discovered, what is to-day an accepted fact, that Mrs. Armstrong died of arsenical poisoning. That was the sequence of events. There was the sequence which had not worked back, but that had been worked forward. The exhumation was made and the body was examined, and arsenic was found to be present. There was found no organic disease, and it was clear to demonstration, and it is accepted now by all, that she was done to death by arsenical poisoning. Now we have her life right away to her death, and my learned friend has got this difficulty in setting up what is called the theory of the defence. I use the

word theory not in any disparaging sense, because it is a comprehensive term for a matter the defence are entitled to put before you, and of which they ask your acceptance, but you are to accept this theory—you have got to do this—to dissociate the symptoms of August, 1920, from those of 1921 before her illness, and you have to separate those two illnesses of Mrs. Armstrong. The one has to be attributed to a wholly different cause—(that in August, 1920) —and the illness of 1921 has to be segregated entirely by itself, and then and there they suggest suicide. Now, in order to deal with the symptoms that occurred in August, 1920, the suggestion is put forward that all those symptoms were due to acute indigestion and severe rheumatism, and both those causes are grouped together as justifying the opinion that her illness was due to what is called auto-intoxication—that illness is now called by Dr. Toogood rheumatoid arthritis. It is a disease of which most of us unhappily have had some experience amongst our friends, neighbours, or relations. We know what it is like, and are not unfamiliar with its insidious effects, but here it is—Dr. Toogood calls it rheumatoid arthritis, and one cannot help seeing that when evidence is called on behalf of the defence there may be, and here I make the criticism not unkindly, a certain amount of sympathy with those on whose behalf that evidence is called, and it is suggested in calling the witnesses we have—the expert witnesses—we have placed the prisoner in a somewhat unfair position because of the great experience and ability of the doctors we have called on our behalf, Dr. Spilsbury, Sir William Willcox, and Mr. Webster, and that their experience ought to be discounted in favour of the prisoner, and that you ought to consider how it is that the prosecution are able to bring such a heavy weight of material, a position denied to the prisoner. On the other hand, that leads me to make this observation, that if, in considering the case of the death of a subject of the Crown, the Crown did not engage the highest skill and best experts of the highest ability, comments might not unjustly be made; that they should have got not only qualified experts, but some one of the highest and matchless ability; and you have to judge by the manner in which my expert witnesses gave their evidence whether or not they were careful to observe every sort of care in giving their opinion, and to try and place before you with fairness and care all the matters with which their evidence dealt.

Let me pass now to the illness of 1920. I am not going to detail every story told as to both illnesses from which Mrs. Armstrong suffered in 1919, and it is, I think, sufficient for me to recall to you (for you have every bit of the evidence in your minds) that the medical attendant looking after her treated her as described, and tells you it was muscular rheumatism, which cleared away. It was in the right arm, and, though undoubtedly she had this rheumatism, it was not rheumatoid arthritis, but it was

The Attorney-General

rheumatism from which many of us have suffered, and will suffer, from time to time. It is called rheumatoid arthritis, but I am struck with the fact that when Dr. Toogood gave us this description he introduced a new term which had not been cross-examined to by Sir Henry, and its gravity was enhanced by the term that was used. We have a document that does not entirely describe the condition of Mrs. Armstrong when she went into the asylum. It is a document under the hand of the prisoner. It is a document under the hand, let me take it, of an affectionate husband—a document under the hand of a man who wished his wife to get better in the Barnwood Asylum. He wished, therefore, to give information which would be a guide and help to the doctors who took care of her. I will not place that document too high. I will not ask you to be unfair from the way in which it is signed. It is not a document like a policy of insurance in which extreme accuracy is needed, or anything of that sort; but, taking it fairly and not placing it too high, does not it give one a test by which one can say whether or not it describes her condition in August, 1920—whether the man who knew her best did present those features that she was a martyr to indigestion, that she suffered from rheumatoid arthritis, and was in such a condition of bad health that you may attribute all that happened in August to her condition at that time? I will not read it all to you, but let me recall two or three sentences in it. It is this. She is described as a martyr to indigestion, as cheerful but anxious. Then the document refers to her being anxious, and the question is asked whether her health is good, bad, or indifferent. If she was a martyr to this indigestion, if she was suffering from rheumatoid arthritis, if she was suffering from auto-intoxication, should not some trace be found in this document? It says, "Health fairly good, but of livery tendency." You observe that the qualification is put on her health being good generally, but that she is of livery tendency. Gentlemen, does not that justify me, taking that document fairly and not too high, in saying that at that time she was in a condition of health which shows that the description now given for the purpose of proving auto-intoxication is an exaggerated one? I do not want to put it higher. And there is one more answer—"Has she ever suffered from any serious disease, or is she subject to any particular constitutional or bodily ailment?" Would not it be fair to say that if she was a martyr to indigestion, if she was suffering from rheumatoid arthritis, you would put down that she had got acute indigestion, constant rheumatism, and so on? But one other question is put. "Has she ever suffered from any serious disease, or is she subject to any particular constitutional or bodily ailment?" and the answer is "No," and I ask you to take that document which gives you a standard by which you can measure the question of whether or not the evidence now presented to you as to her condition in August was exaggerated or not. And I claim that document does definitely establish this, that, speaking

generally, her health was good, her disposition cheerful, and that she was not suffering from any particular ailment or disease. I observe that Sir Henry made no reference to that document in his speech; and, as I say, I do not wish to put that too high, but is not it a test by which we can see whether the observation is endorsed by those who separate her illness in 1920 from that of which she died? That document seems to me to be treated fairly as an estimate on which you can rely on her true condition at that time. The date of it you will bear in mind is the 23rd August, 1920.

Now let me quite shortly remind you of the August illness. The doctor had seen her on the 1st August. Dr. Hincks was asked for a sleeping draught on 15th August. We know that Dr. Hincks took a specimen of the urine, and found albumen in it. On an earlier occasion she had been suffering from vomiting, and her tongue was clean, pulse 120, and sordes round her mouth. He visited her first at twelve o'clock, and the symptoms which had returned at three o'clock had been increased and were marked. Those are the symptoms I am dealing with. She suffered from vomiting, her pulse 120, instead of 80, and sordes round her mouth, heart dilated and sallow complexion. At three o'clock Dr. Hincks was doubtful whether she was in a condition in which she could be taken to the asylum. That anxiety had not existed in his mind at an earlier time, but when he came back those symptoms had progressed in such a marked manner that he hesitated. She was taken, not in a car sent from the asylum, which would contain as part of its equipment something in which the patient could vomit, but she was taken in a car by Dr. Hincks, and there was put in a vessel because of her condition that caused such anxiety. She was taken to the asylum, and arrived there in an exhausted condition. She arrived, and her urine was found to contain albumen, which cleared up, and by the 28th it had all gone, to be quite accurate, and her condition had shown a startling rapid alteration in the course of the few days from the 18th when Dr. Hincks visited her.

Arsenical poisoning we know a great deal about now. It has two features—an immediate effect on the stomach, at first indicated by vomiting, and it has also an action, after the vomiting and after the arsenic itself has been expelled, upon the nervous system, and you would expect to find (this is agreed on both sides) that after the acute symptoms had passed there would be an effect on the nervous system, which comes on in ten or fourteen days. What happens? She is taken to the asylum, and is there treated, and the albumen passes away, and the anxiety of her condition is modified; and yet you find that early in September—about a fortnight after her admission to the asylum—there is the second stage of her arsenical poisoning—neuritis, peripheral neuritis—we know what that means, not local neuritis in one joint or one arm, but it is from a central force which saps the vitality of the nerves and finds expression in a general inability to make use of the

The Attorney-General

extremities of the limbs. All those symptoms came on and were marked quite clearly. Now, was that due or not to arsenical poisoning, or was it due to auto-intoxication? I will not repeat, but when you regard that document and see what her general health was, and when you find those symptoms—both of them primary and secondary results—I ask you to accept the evidence now clearly given by Dr. Hincks and others that what she was suffering from when she went to the asylum was arsenical poisoning. In the course of the stay at the asylum we were told by Dr. Townsend that it would be the ordinary practice to examine the urine from time to time, and, as there was no statement of any albumen, we may assume that on the 28th August she was better. The evidence of Dr. Townsend is perhaps not so definite as to her actual condition in October, November, or December, but it is a general march forward, and she had that tonic that contained arsenic for thirty-one days, from 3rd October to 4th November. All that would pass away in the seventy-nine days which elapsed before the last dose of this tonic mixture. We know that all traces of that would pass away, and that the only signs that one might get would be in the hair and nails which were grown, or which commenced to grow while she was taking the tonic. You would find traces of the arsenic, but for all practical purposes you may eliminate that tonic. It is suggested that during the time there was some clear evidence, of which I am not aware, that she definitely showed a retardation of her condition while she was taking that tonic. If you look at the matter in a straight way I think Dr. Townsend's evidence is that she made progress, and, as far as I remember, there was no indication (though the experts spoke of it) or record that in October she was suffering again, or anything of that sort, and you will then judge whether or not there is anything to disperse the opinion given with weight and with confidence by Dr. Hincks. Dr. Spilsbury and Sir William Willcox say that in August her condition was caused by arsenical poisoning.

Now we come to her release. You will remember Major Armstrong writes, or gets Dr. Hincks to write, on the 11th January, and the statement is that there her mental condition has much improved, and so on—a statement made with the care you would expect from a physician in charge of her, but that is not fully accepted by Dr. Townsend, and Dr. Townsend, in all the circumstances of the case, thought it one in which it would be wise to let her go out on conditional release—on probation. I said in opening that the prisoner refused to accept that, and I said that he may have done that because he did not want to have another responsible authority who would inquire into her death; and my learned friend is quite right in saying that the evidence of Dr. Townsend was that he would accept the certificate of a responsible doctor like Dr. Hincks. But what does the prisoner say about it? What does he say was his reason for not accepting this conditional release? He thought it would mean that from time to time doctors

would come over from the asylum to examine her condition, and if these doctors had come from the asylum, knowing what they did, if they found a recurrence of the symptoms, would not there be the danger, from their recurring visits, that the truth would out? I am quite content to leave that matter where the prisoner left it—that he was unwilling to accept conditional release because of the intermittent but recurring visits which he thought would have to be paid to her if she came out. Be it remembered that in order to certify a patient you have to get a second doctor's opinion, and in this case it would be necessary to get Dr. Jayne to come over, and he would have to pay a professional visit, with the concomitant expense, and so on, and you remember Dr. Townsend said he did not accept the position that mentally she was cured. Her physical condition had improved enormously, but mentally (and that is the reason she went to the asylum) he did not accept the statement that she was fully cured; and you will ask yourselves whether or not that was a wise and prudent course for an affectionate husband, knowing of the difficulty of a re-certification warrant by a doctor that her mental condition was not completely re-established—you will consider whether an affectionate husband would have said, yes, I think the right course is to accept what Dr. Townsend offered, because in his judgment—perhaps the best judgment at such a moment—it would be the better course to pursue. On the 11th, the day on which this release is first contemplated by a letter from Dr. Hincks, that is the day on which there was the purchase of these 4 ounces of white arsenic.

Now she comes back, and my learned friend has this difficulty to get over. He wishes to attribute the whole of the illness from which she died to a fatal dose of arsenic taken wilfully by the deceased at some date about the 16th—I think on the 16th February. He has overlooked a good deal of evidence to which I am going to call your attention. It is not on Dr. Hincks alone that her condition before the 16th depends. Let me remind you. On the 23rd January he secured the services of Nurse Kinsey, because at that time she was still suffering from this peripheral neuritis. At that time Nurse Kinsey came in to help her an hour in the morning and an hour in the evening, but Nurse Kinsey tells us that she was told that Mrs. Armstrong had vomited on the 27th January. She says that on the 26th she took two pills. "The prisoner and she told me of this. I asked him why, and he said he thought for indigestion. He told me that she had vomited in the night after taking them." Of course, you may suggest that these pills—(some homœopathic pills, or Dr. Andrew Clarke's pills, which she had taken for a period of years, and her sister had taken them)—that the sickness was to be attributed to them. But that is the definitely proved vomiting on the 27th January, and Nurse Kinsey calls back on the 10th February. She had been for four days seeing Mrs. Armstrong night and morning. She calls back

The Attorney-General

to see Mrs. Armstrong, and she finds, and her words are, she was very surprised at her condition. "I called to see Mrs. Armstrong, and was very surprised at her condition. There was a deep discoloration of the skin, she was very wasted, and complained of severe pains in the stomach, and vomiting badly. She was on the sofa lying down. Major Armstrong was alone with her." There you have Nurse Kinsey's evidence regarding her patient—that she vomited and was worse during that time, and that on the 10th February there is a marked change in her condition—she complained of vomiting and pain in the stomach. She had thus got an indication of her condition, discoloration of the skin, and she was very blue round the mouth. Do you believe that those symptoms told you by Nurse Kinsey have got no relevance to the subsequent illness? Does not it point to this, that the prisoner had commenced once more, it may be but small doses, but was giving her doses of arsenic which once more brought into the light the very symptoms which arise on the giving of arsenic—vomiting and pains in the stomach, and so on? On the 11th Dr. Hincks calls, and he made a somewhat close examination of her, and he endeavoured to get her to walk. He thought there was some want of co-ordination, but what was her condition at the time? You remember he described it, that she could not pick up a pin, that this peripheral neuritis prevented her doing so, and she complained of a spring pressing her up from the ground, and he said she complained of a return of this symptom—the high-steppage gait. Now pause there for a moment before we get to any controversial point which may be discussed on the one side or the other. I put it interrogatively to you, have you not, by the evidence of Nurse Kinsey and by the evidence of Dr. Hincks, sure and certain evidence of a return of the symptoms of arsenical poisoning? Now, there is a controversy raised whether or not Nurse Allen was right in saying she thought she walked down on the 11th or 12th and took to her bed on the 13th, or whether she was sitting in the garden on the 14th, as Mrs. Price says she was. She was sitting in the garden when Mrs. Price saw her; under what circumstances? She was helping Mrs. Armstrong to sit up and enjoy the fresh air. With no sign of illness at that time? Not so. Then the witness Price says she was sitting up with an eider down round her, and a hot-water bottle, and she describes her condition as very frail. Add that to what I have said and see if I am not right that during that period of time you have evidence of the return of these arsenical symptoms—not as acute as before, but at the same time definite and clear, and my learned friend has to get over that if his suggestion of suicide is to be established. Now during that time she betrayed, as Dr. Hincks told us, certain symptoms, and I can deal quite shortly with the subsequent days. On the 16th he called, and some question has been raised as to what time he called. We know he was telephoned for, and we know his book records a second entry of a whole long day. He went to see Mrs.

Armstrong. Let me read it to you. "I went and found her in bed; she told me she had been vomiting; she complained of abdominal pains. I examined her abdomen, and found it intensely painful on slight pressure; it was not swollen, but contracted; there were no signs of organic disease in the stomach. I examined her heart, and there was a pre-systolic murmur," &c. "Her anxiety was to get better." We know that during the last four days of her life the paralysis increased, and she was quite unable to take any food. I am willing on this, perhaps, to assume little; but it is of great importance to show that those symptoms were acute on the 16th, that they had existed and had recurred. It is said by Armstrong that he did not know she was going to die until Dr. Hincks told him so on the Monday. Dr. Hincks's statement is that he told him on the 18th, which, if I recollect rightly, would be Friday. He says he told him on Friday, and there is no doubt that from this time (for this is agreed between us, these last four days) she was lying helpless, and the evidence of Dr. Hincks, I submit to you, is of greater value and of greater weight than I think anybody else's evidence, because you have got the evidence of a man, a trusted physician, who was seeing her and observing her day by day.

No attack can be made on Dr. Hincks. No one doubts his ability, his experience, his judgment, his reliability which he exercised in the course of the illness of which he tells us. Did she take it herself? A religious woman, a virtuous woman; anxious, as Dr. Hincks tells us, to recover; and it is suggested that this woman committed suicide; that she had at some time on the 16th February taken the arsenic and poisoned herself. She was still able to speak; she was a person for whom they had no anxiety. Armstrong himself said, speaking of this very time; "Did you get anxious about your wife's suicidal tendency?—*A*. No. *Q*. So that from the time she became bedridden down to the time of her death, the anxiety you had in August, 1920, did not recur to you?—*A*. No." What is the suggestion of suicide? In August you know Mr. Chevalier had suggested that he (Armstrong) should put razors, and so on, away, Mr. Chevalier being a person who had come to his friend's house. He said that in case of delusions, and I suppose any one of us would be anxious to do something or make some suggestion and would say, "Well, if the person has delusions, be careful," but you will remember the evidence, that nobody attached any importance of any kind to the matter of August, but when you come to February this case of suicide depends on this. It was said by one of the witnesses that she said going up to the attic, "If anybody jumped out of that window would they kill themselves?" What does that mean? A mere observation which depends entirely on circumstances and the occasion on which it is made. Does it mean "I am going to commit suicide and want to find a way to commit suicide"? Do you attach

The Attorney-General

importance to that, or do you trace the cause of her illness as I have traced it to you? Dr. Hincks says she was anxious to get better, and Nurse Allen tells us the same. So far from their putting on this woman, as I have said a virtuous and religious woman, any anxiety to destroy herself, no word is told while she is suffering from acute pains. No word is told or revealed by her, and almost her last words on that morning, the 22nd, when she casts one lingering look on this world as she passes into the valley of the shadow of death were, "I am not going to die, am I? I have everything to live for." Suicide! Can you believe it? Can you accept it? It is upon that evidence you have got to say whether you will accept Nurse Allen and Dr. Hincks, or whether you will accept the suggestion kindly made, sympathetically made, to try and get something to say for the prisoner. Will you accept the suggestion in this case of suicide? Gentlemen, if you do not, the position is clear. You know what the household was in August and February. One man and one person alone constituted the household on both those occasions, and here let me tell you of a remarkable piece of evidence, and I was astonished to hear the answer given by the prisoner—"Yes, I was alone with her; there was milk and soda in the room. There was a pot of Benger's or something in the room. *Q*. Did you ever put a cup to her lips; did you ever slake her thirst; did you ever minister to her as a devoted, loyal, faithful, and loving husband?—*A*. No." If he were the loyal and faithful husband, put yourself in that position. Is it not absolutely impossible that, being at the bedside of your wife suffering these agonies, you should detach yourself so far from her bedside and her sickness and from her pain as to say you never gave her anything to minister to her?

Gentlemen, when you are considering this matter, take those matters I have presented to you into your consideration. The body is exhumed. Are there traces in it? We have given clear evidence on that, and I ask you to accept it and form an estimate based on exactly the same line of reasoning as the doctors about arsenic found in the body. If you are driving a horse vehicle or motor car, you know about the pace at which you are going, and will be able to form an opinion from the time you start of the hour at which you will arrive and reach your destination. That is one of the simple methods of ordinary reasoning in daily life. A doctor, you know, can tell us that he finds traces of poisoning, if they are found, on its passage through the course of the body. He can tell you how long it has been there, and when it was taken. It is purely the same reasoning that happens in daily life. If you are passing over a snowfield and see footmarks, you can tell that some person has passed over the snow. If you see marks on a moistened piece of land or road, then you know a person has passed going in a particular direction. All those are simply indications of daily life; and what do doctors do? They find here through the

bowels—and the bowel wall was not broken down—what they expected to find, that a certain quantity of this arsenic is there—less in the upper portion of the bowel, the jejunum, more in the ileum, and a larger quantity in the cæcum. They know to a certainty, within a few hours, at what time the arsenical dose must have been taken in order to reach that point, and they tell you there must have been a fatal dose administered to that woman within twenty-four hours of her death. Dr. Spilsbury and Sir William Willcox both had the points of these hypotheses put to them by my learned friend, and they were put to them in all good faith, and with every sympathy on the prisoner's behalf, and they gave them every consideration. Sir William said as to the suggestion made, "It is quite impossible," and Dr. Spilsbury took the same view. You have, therefore, the sure marks in the body itself, clear to the doctors—just as clear to them as I have said the footmarks would be to any one showing which way somebody has passed along—just as clear, and the only suggestion to try to get rid of this evidence is that there has been what is called a migration of the poison, and the doctors say they found in the liver a large quantity had collected. You have it that the bowel wall was not broken down, and one of the doctors, I think, gave an illustration of what took place, and says the pipe of the bowel was intact—indeed, the whole body had been preserved by the amount of arsenic that was in it. This is what Sir William Willcox says. He thoroughly understood Sir Henry's proposition. "I think his hypothesis quite impossible to account for Mrs. Armstrong's death. I understand the suggestion is suicide committed according to the system of that hypothesis."

Well, gentlemen, that is the close of the February illness and the death. Now it is said, what possible motive can there be for such a wicked crime? Motive, gentlemen, is a relative term. No motive should be strong enough to bring the prisoner into the position he now occupies. The wealth of the Indies cannot offer a motive; there can never be an adequate motive to you or to me, calmly considering the matter, for committing a crime so terrible, so sinister, so wicked—no motive. Ought I to have suggested that he would reckon £50,000; ought I to have suggested that he would reckon £100,000, or that he would do it for £250,000? No. Motive is a relative term, but what do we find in fact here? We do find that the prisoner secured to himself a new will, entirely placing him in a different position. Under the old will he is entitled to receive, in case of her death £50, and no more until 1933. Under the new will he would get some £2300 immediately. That new will had one remarkable feature in it. The previous will was drawn with particular care for the sake of the children, and contained a small, but never mind how small, true and honest expression of gratitude and love for their faithful servant, Miss Pearce. The will was produced. It is entirely different, cutting

The Attorney-General

out and removing all the provisions that had been inserted in the old will, and it is a will which was signed under circumstances which I submit to you render it invalid. What is the purpose of the provision that a will shall be executed by the person signing it in the presence of two witnesses? It is that the testimony of one or other of them should after death be clear. Now, she makes a will, and states it to be her last testamentary disposition. What happened here was that the will is drawn by the prisoner, and under it he alters his own position. He displaces Miss Pearce. It was a will to which Lily Candy, afterwards Mrs. Evans, was a witness when Mrs. Armstrong was not present. Miss Pearce was there, and has given us three accounts of it. "I remember on one occasion I signed a paper in the drawing-room at the request of either Major Armstrong or Mrs. Armstrong, who said, 'Here is Miss Pearce, she will sign that'; and I did as requested. I signed the will; I was not told it was a will. I signed other papers for Mr. and Mrs. Armstrong, but I never knew what they were." They are at variance on that, and in the box she had a sudden recollection, and then remembered Mrs. Armstrong holding the will and saying, "I will hold it while Miss Pearce puts her signature to it." But it is for you and not for me to take the variation of the testimony Miss Pearce has given. I submit to you it is clear, when you have regard to the will, that the will was signed irregularly, and that you can rely on Mrs. Evans's evidence. The only suggestion which my learned friend made with all the energy of which he is so capable was that Lily Candy said that was the only document she had signed for Mr. Armstrong. I think she was right. It is said this was a deviation, and showed that her memory was bad. She had signed at some anterior period when she came into the service some paper that she should be transferred to the panel of Dr. Hincks, and for that purpose she had to give her signature to the form filled up by Major Armstrong. It was a document signed for her purpose, and I think the evidence she gave that the will was the only document she ever signed for Major Armstrong was true. What she had done was that this form had been filled up by Major Armstrong, and she had signed her name to her own document, but that is the only discrepancy, because the defence know if you accept Mrs. Evans's evidence there is quite clear testimony under which that will was shown to have been signed and wrongly signed. It does not stop there. You will remember the question about the epitome and matters that arose just before Mrs. Armstrong left Barnwood Asylum, and her letter was produced, which I put to the prisoner, "I forgot to ask where is my original will." At this time Armstrong tells you she was quite clear and had no delusions about this. "All executors ought to know. H. has a copy. You locked it up while he was on service"; parts that are admitted by Armstrong to be perfectly accurate.

The epitome was found after her death. I submit to you it was abundantly clear on this evidence that the prisoner was minded to get for his advantage under the new will immediate possession of his wife's goods. Whether they were large or small I care not. I agree I can make a strong observation as to what motive would justify a prisoner in doing what he did, but I repeat to you that motive must be taken in its proper perspective, and you have there the motive of a man moved by the design and purpose to get, as he did, immediate possession of his wife's property, and we know the securities were placed under circumstances not very clear.

Let me deal with one other matter. A lady was called as a witness, and perhaps it is a matter for your consideration at the time when this will was purporting to be made. Early in July they dined together. There is no sinister interpretation to be put on that, that they dined together, but within three months of his wife's death the loyal and affectionate husband has so far recovered as to go down to Bournemouth, and on the 14th or 15th May he proposes marriage to that lady. Scorn is poured by my friend on the fact that the initials of the lady are entered in his diary, and he asks if a young man ever records that in his diary when he is going to pay addresses to a young lady. What are the circumstances? Is it not rather this—a widower sorrowing for the loss of an affectionate and loyal wife with whom he was on affectionate terms, might not it be that he had recovered so quickly that three months had passed since the death, but though he was affected so much as to write that letter and to state he had become unstrung that he not unnaturally wanted change, and he arrives back from Paris on the 28th April, and he goes at once to Bournemouth, and in a friendly manner he asks the lady to engage herself to him? You will take that into your consideration. It, too, has a bearing on the affection and devotion of a husband towards his wife. It all adds weight, and you will know what weight to give it in the relation of a husband to his wife. Lastly, in passing from this matter, let me deal with one more matter. It is said by my learned friend, again with force, and not undue force, "Can you imagine a man committing this crime who in August when negotiating with a busy friend, Mr. Chevalier, to come down and see his wife when taken from the asylum—can you imagine this man taking steps to get Dr. Hincks to visit his wife when she came from the asylum and to pay visits from time to time—can you imagine a man corresponding with Miss Bessie Friend on a post card," and all the rest of it? "Can you imagine a man engaging a nurse to look after his wife in January, and talking afterwards to Mr. Chevalier, and so on, to whom he explained that, though he had obtained the property under the new will, he would carry out the terms of the old will?" The prisoner is in this position—do you suppose that if he adopts the

subtle method of poison he will not endeavour to cover the tracks? Do you suppose that a magistrates' clerk, well acquainted with evidence, and the way in which men have felt the way to hide what they are guilty of—do you suppose he would take no steps? Yes, the very fact that this crime is one which is so difficult to discover—is one which would lead him to apply the ingenuity which he possessed and the experience he had acquired—led him to cover up every possible trace of his crime if he could, and it is that sort of case in which he might expect to meet with success. Many murders are committed, and many other crimes committed in hot blood, but murder by poison is committed by deliberate thought and by carefully and well-chosen means. It is as I have said, sinister—it is a design, and then a device no doubt is made use of to secure that the discovery of the crime shall be well-nigh impossible.

Now I will pass to the next matter to which I must ask your attention—the Martin case. You know the story. On the 20th October the position was this, a situation of some difficulty—do not let me put it higher—had arisen whereby Major Armstrong as the stakeholder knew that unless completion took place the stake could be re-demanded and the sale would be off. That had been made perfectly clear, because at the interview of the 20th, the day the purchasers were present, they had emphasised their position. On the 21st there is an invitation to tea, the hospitality offered. Pause for a moment. Who was this man whom Mr. Armstrong was beginning to invite to tea? Once and once only previously had he been invited to the Armstrongs' house, and then he committed, according to Mr. Armstrong, an intolerable offence: he went unsuitably clothed to this house in the country on an afternoon, and he arrived dressed in flannels and what is called a sports coat, when, to pay proper respect to the invitation, he ought to have dressed himself differently. If you believe the story, on which I confess some comment might be made, if you believe it, Mrs. Armstrong had taken such exception that he was never invited again; Mrs. Armstrong was particular. It was after this situation, which was more or less acute, that an opportunity is sought by the loyal, faithful, and affectionate husband to once more offer hospitality to the man whom his wife had taken exception to. It is curious, he does offer hospitality, no reason can be given for it, and finally the tea is fixed up for the 26th. He declines to accept the lift in the car which Mr. Martin offered; it is a time at which they are both working at high pressure, very busy; these sales have to be completed. He says in declining the lift in the car that he had something to do at Mayfield first. He left the office at about four o'clock; he says he went into the house and took off his hat and coat; he does not remember going to the café that day. What happened? At the tea a scone was handed to him, you have heard from Mr. Martin, with the definite statement, "Excuse fingers." What was it? Here there is a remarkable concurrence

of testimony. Miss Pearce says they were not buttered in the kitchen, the maid Price says they were uncut and unbuttered, that is the ones that were supplied in the house. Miss Pearce made them. So that the household say that these scones which were provided from the kitchen at Mayfield, made by Miss Pearce, were uncut and unbuttered. Martin says it was a buttered scone; the prisoner's statement concurs in that. This is the statement written when he was first challenged—"The food consisted of buttered scones, buttered currant loaf cut in slices, and bread and butter. I handed Mr. Martin some scone on a plate." It is curious that you have got the testimony of the household—scones not buttered; the testimony of Mr. Martin and that statement—scones buttered; the testimony of the prisoner—"I handed him a scone," not a question of the bread and butter, a scone on a plate. Then he goes on to say this, and you mark it—"I shall be able to ascertain by going to my house where the scone and the currant loaf were bought." We know from Una Baker that buttered scones from the café were bought by her once or twice and once by another clerk when Mr. Martin was invited to tea at the office, as he was subsequently on several occasions. You will consider whether you accept the evidence of Mr. Martin and the prisoner that it was a buttered scone; and, if it was a buttered scone, it was not difficult to place a small amount of arsenic, such as the prisoner was found in possession of at his arrest, into the buttered scone; there was an opportunity at any moment of putting that on a cake plate. Times are far too uncertain for you to say that Jay or MacGeorge or the prisoner or anybody else accounts for every twenty seconds between four o'clock and six o'clock.

He left the office on this day when he was very busy at four o'clock, and you have the scene before you, and you will ask yourselves whether the opportunity is not abundantly shown by what had happened aud what did happen. Dr. Ainslie says that if that bottle in which the urine was taken was clean, and 1/33rd of a grain of arsenic was found in it, Martin's case was a case of arsenical poisoning. The charge has been made that this trace of arsenic may have arisen from a dirty bottle. Mr. Davies selected the bottle, a chemist of experience and repute; he tells you he washed it half a dozen times, it was a new cork, and he realised the importance of a clean bottle. Dr. Toogood makes the somewhat remarkable statement that apparently he would not be satisfied unless the urine was passed in the presence of a physician. What that observation is worth I know not, and why it was made I know not, but you will have to consider this—here are the symptoms of Mr. Martin. He goes home, suffers at once from nausea, feels disinclined to eat his food, does in fact yield to his wife's solicitation that he should eat; he does eat the food, vomiting comes on, he has very severe pain in the stomach, diarrhœa, and all the rest of it. But I am content. Dr. Ainslie's own view is, if you can rely on that test of 1/33rd of a grain, it was a case

of arsenical poisoning. He said, "If I was certain of the sample, I should agree that Martin had taken some arsenic." What other source had this healthy man to get this arsenic from? What other source than the man who afterwards invites him to tea, repeated invitations? According to his own story, he invited him a full half a dozen times to tea during this busy period. On the 6th December there was the threat of the writ followed on the 7th by an invitation to tea. Then it was found that Martin had failed to come, but would come at 5.45. Martin tells you then the message was, "Do not bother to come now, come to-morrow to tea." On 12th December, the date when the time was up and the writ would have to be issued against him to recover the money of which Armstrong was the stakeholder, again "Come to tea." "Oh, I am engaged to Davies." "Put Davies off." How do you explain this sudden change of attitude which has come about from the 20th October to this man who had occupied a position, so far as the Armstrong household went, of not being more than a professional acquaintance, or a professional friend, and of whom the recollection of Mrs. Armstrong's judgment of him, if true, must have lingered in Armstrong's mind? And yet you have this remarkable circumstance, that remarkable illness, and the discovery of 1/33rd of a grain of arsenic in the urine. It is to that tea, to those circumstances, to that illness, to these remarkable and curious symptoms that this case owes its origin, as I pointed out originally. You will consider what explanation can be offered of that tea and of those circumstances.

Then there follows the December arrest; the statement is made, and the leave is given to see the morning letters. Let us pause there for a moment. We have this coat, what is called for this purpose a garden coat, but on this occasion it was being worn by Mr. Armstrong at his office. There is this small parcel of arsenic, and the letters are lying on the desk as if they needed attention or signature. Inspector Crutchett gives leave for him to see those letters; the others, the contents of the pocket, are all folded up in a brown paper parcel, and upon that there is placed a blotter to keep them. While Inspector Crutchett is not observing the prisoner, the prisoner releases the parcel, goes to pick it open, and Inspector Crutchett says, "What are you doing?" "The letters I allowed him to examine," says Crutchett, "had come by the morning post; the pocket contents I did not examine until 4th January; I gave him leave to examine the business ones only; he had not examined these business letters when he got to the heap of contents of his pocket." In other words, so says the inspector, he had not made use of the opportunity accorded him, but he did take an opportunity of going to the brown paper packet. Inspector Crutchett did not examine this little parcel of arsenic which was taken from his pocket until 4th January; he had no knowledge of it; they were mere "contents of the pocket"

so far as he knew on the 31st December. He stopped him. What does the prisoner tell us? He examined that brown paper parcel; he discovered a little packet of arsenic; he, as he told us, realised what the parcel was and its importance. My learned friend in his candour says he would have been wise to tell Inspector Crutchett. Why did he not? Mark you, it is not Crutchett who knows anything about the arsenic, it is the prisoner himself who finds the packet of arsenic, realises its importance, and it is conscience that comes to the prisoner's assistance, and he realises what the deep importance of it is. Yes; and "conscience makes cowards of us all," and the man who had written his statement telling us that he was giving the whole matter to help the police, with candour, with completeness, says nothing. What is the story of the prisoner? It is precise, in detail, and it had its effect. It says this, "The first time I purchased arsenic was in 1914," and so on. "I came across a recipe for making liquid weed-killer; I remember him telling me arsenic had to be mixed with charcoal, and he mixed it accordingly." Then "The purchase of ½ lb. of arsenic in June, 1919, was for the same purpose, and was used in exactly the same way. The liquid and powder weed-killer were purchased to my order by Jay, of Castle Gardens, Hay, who attended to my garden at that time. I don't even know how much was purchased, and I never saw it. I believe it was kept in the stable. In January, 1921, I made a further purchase of ¼ lb. of arsenic at Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself. It was not a success, which explains why I have some left at my house. When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on," and the final sentence is this, "The cupboard where I keep the arsenic at my house contains boot-cleaning materials, and is unlocked. Nobody in the house, as far as I know, is aware of the presence of arsenic in the house. This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine. I have a medicine chest in a bedroom." There is a particularity in that, a meticulous particularity, and that is the statement which he realised, when he saw and knew what the little packet was in the brown paper parcel, was false and misleading; and we came here, and my opening was based on this statement that the 1921 arsenic was bought with charcoal, and it was the only arsenic at the house. Of course, I knew of the little packet.

Mr. Justice Darling—The little packet in the pocket?

The Attorney-General—Yes, the little packet in the pocket.

The prisoner realised the deep importance, for, according to his case, in the jacket which he did sometimes wear at the office there was this final dose, and if it was worn and in his pocket, for apparently it remained among his letters, caught up among

them, during the time of these repeated invitations to tea, there was the evidence, the sinister evidence, of the reason for and the purpose of giving these repeated invitations.

Now, we know that after that the house was searched, the police failed to find it, and we know the dramatic circumstances under which Mr. Matthews ultimately did find the packet. He said, and I sympathise with him, that he could hardly believe what it was when he discovered it. Let me here say, as I am entitled to, holding the office that I do, with what pleasure I heard the statement made by my lord to Mr. Matthews yesterday. Whether it is of one branch of the profession or another, all that attaches to or concerns the great legal profession has a deep concern for me, and rightly, and I was delighted to hear Mr. Matthews had the opportunity of showing that in his case he observed the strictly professional and right attitude, but I know that he perfectly appreciated what my friend had done, that when this startling information was given to us he put questions in which we realised exactly what the position was, and after that time I made the statement (which I think I made not once or twice) to which on my own motion I should like voluntarily to make and to join with my lord in the tribute which he paid to Mr. Matthews. It was a difficult situation, and he acted rightly. But how does that affect the prisoner? The prisoner is in this position, he has made a false statement, and realises it to be false; he has to account for this little packet in some way. The statement was made before the packet had been either considered or examined, and he now tells us how he came to make these little packets of arsenic. He tells us that on an afternoon in June, 1921, he, minded to try this dry arsenic on a dry day upon the dandelions, went and folded up these little packets, and he made a score of them; he then immediately took them out and, packet by packet, dandelion by dandelion, daisy by daisy, he endeavoured to place them at the roots of these weeds, and to empty the little packets which he, a solicitor, busy, and so on, had made with his own fingers but a few moments before. Gentlemen, is there a man, woman, or child in this Court who heard that statement who would attach the smallest credence to it? Do you believe that that man made those packets on that day and then went out and emptied them, daisy by daisy, dandelion by dandelion? It is an almost pitiable device, but it is and it remains a falsehood to deceive. A falsehood; perhaps the best that could be contrived to explain, but a falsehood none the less. Yes, says my friend for the prisoner, "this attitude of suspicion which places him there." There is a weapon in the hands of each one of us, a trusty weapon in the armoury of each one of us, a weapon that belongs to high and low, the poor and the defenceless, that can pierce through doubt and resolve suspicion; the weapon is truth. Tell the story, tell us what happened, take away the falsehood, explain, candour from

the accused man, candour from the loyal husband, candour from the affectionate and sorrowing widower, suffering from this atmosphere of suspicion. Yes, truth is a great and faithful weapon, and if it is not used by a man so well acquainted with the serious danger of the devious path of falsehood, if it is not used by a man well acquainted with police court proceedings, the course of justice, comments that may be made, am I not justified in saying that there was a reason for it? And this, may I say pitiful story, is made out, and you are asked to believe that that is how the 3¾ grains came into the pocket of the prisoner. Gentlemen, if I am confident of one thing in this case, I am confident that no one will believe that story. What does it bring with it? It brings with it this, that that story was realised to be a misleading story; it did not contain the guidance which it purported to contain; it put the police off the track; it secured time for the prisoner to make up the story as to how the little packet came into his pocket. Gentlemen, you will judge; I am not going to read that again, you are fully acquainted with that story. What does it bring with it? A falsehood; it brings down the structure built up upon it. It collapses, and we have to contemplate the prisoner at a moment when we might have called upon him from his experience and position to exercise candour, it shows him a man making up a falsehood, relying upon a falsehood to explain this sinister discovery in the pocket of his coat. How much can you rely upon his evidence?

Gentlemen, I think I have now gone through the whole of the case that I present to you, and I hope I have dealt with it not in too great detail, but I hope I have dealt with the salient facts. The story that I have told, the evidence that I have presented, I submit all fits together, it all points to one conclusion, that the illness of Mrs. Armstrong in August was due to arsenical poisoning; the illness in January and February of 1921 was due to arsenical poisoning, and we know she died of it. The extraordinary similarity between the symptoms in both those illnesses is so remarkable that you have the confident opinion of the experts, and you have to ask yourselves, who would minister it? Was it a case of suicide? No. Are you to believe the story told by the prisoner; are you to accept his explanation? And what of Martin's illness? I submit to you that we have carried this case far out of the range of suspicion, far beyond all range of legitimate doubt, far beyond the uncertainty that has been suggested; we have carried it into a realm where you can rely upon what the prosecution has told you.

My friend has rightly more than once called your attention to the fact that this is a case of life and death. Yes, but whose life? Whose death? Has there not risen before you in these long

days a picture of the scene, of that wan figure lying helpless on her bed of sickness, unable to help herself in any way, that figure who has already passed to her death? By whose hand? I say, and I submit to you with confidence, by the prisoner's hand. I submit to you that the evidence compels you to that verdict. I submit to you that, sympathetic as I know you have been and would be to listen to any legitimate cogent explanation which can be put forward on behalf of the prisoner, the evidence is too strong, the evidence is too convincing, and if I am right and that evidence compels you, you will not fail to do your duty, you will not be frightened to do your duty, and I shall ask you in the name of the well-being of our community, in the interests of our whole social bond, I shall ask you in the interests of the community at large, the interests alike of the poor and the lowly, the defenceless, the sick, all happily included in the one word, the Crown, I shall ask you to find a verdict that the prisoner is guilty.

Charge to the Jury.

Mr. Justice Darling—Gentlemen of the jury, the long and anxious inquiry in which we have been engaged now approaches its end, and it becomes my duty to sum up to you the case as it has been presented. I am glad to think that it will not be necessary for me to go through the whole of the evidence piece by piece; you have heard it, you have listened to it attentively, and a great deal of it has become immaterial, because when the Attorney-General set out to lay this case before you he opened to you that he would have to prove that Mrs. Armstrong died of a dose or doses of arsenic administered to her, and the proving of that necessitated the calling of a great deal of evidence. The Attorney-General could not omit to call it, because in a criminal case no admission short of guilty can be made on behalf of a prisoner, therefore Sir Henry Curtis Bennett could not at any moment say, "You need not trouble to prove that, I admit it." But the course of the defence was this, that a great deal of what the Attorney-General had to prove would not be disputed, and the first thing which is no longer in dispute, and has not been in dispute since the evidence began to be given, is that, so far as anything can be agreed upon in a criminal case, it is agreed that Mrs. Armstrong died on the 22nd February, last year, of arsenical poisoning, of arsenic taken into her system. So the real dispute between the prosecution and the defence is this, have the prosecution proved that the defendant gave it to her? Then, in order to persuade you that the prosecution have not proved that the defendant gave his wife that arsenic, the defence contend

that they have proved that she took it herself intending to kill herself. If he gave it to her he committed a felony. If she took it herself intending to kill herself she committed a felony. These are the matters upon which you will have to use your judgment, having regard to the evidence.

Now the case itself, as has been said to you, is a remarkable one, a deeply interesting one, and I doubt whether any of us engaged here to-day have in recollection a case so remarkable in its incidents. It is, therefore, very fortunate, and I think the public should be satisfied to know, that this prosecution was conducted by no less a person than the Attorney-General. It is a case of great importance to the public, and, when the Attorney-General is engaged on behalf of the Crown, the duty towards the public and towards the prisoner is more fully discharged than if any other counsel appeared in the case, or it may be presumed to be so. The interest of the Crown in this matter is this, it is the duty of the Crown to protect the weakest, the meanest, as well as the strongest and most highly placed of its subjects; they are all equal before the Crown, rich and poor, old and young, strong and weak; and if there is good reason to suppose, as there is when a grand jury have returned a true bill, that a subject of His Majesty has been murdered, it is of the highest importance to the whole community that if the murderer can be discovered he should be discovered. It is of importance that the whole case should be fully and fairly investigated, and it is of importance that the right conclusion should be reached, whatever be the consequences, by the jury to whom is confided the duty of deciding the case. My duty, an anxious one enough, I assure you, is to see that nothing is given in evidence which is not fair and legal evidence, that no unfair questions are put (there was no difficulty with regard to that, because none were put by either side), and it is my duty to see that all that can be elicited by fair and proper questions from any witness whatever is at your disposal, because you have a grave and onerous duty to perform when you have to deliberate upon your verdict.

Having said this, let me turn to this particular case in a little more detail. You know (I dare say it is unnecessary to say it, but my duty is to say it) that it is not for any person accused in an English Court to prove that he is not guilty; he pleads not guilty; that means, "I call upon the Crown to prove my guilt." A verdict of not guilty consequently does not mean that he has proved himself to be innocent, nothing of the kind; it means that the Crown has not proved him to be guilty; that is all. Therefore you must ask yourselves always, has the Crown proved this or that against the prisoner to our satisfaction, this which involves his guilt? If not, it is not proved, and you say not guilty; that is your duty. If you have a reasonable doubt as to whether he is proved guilty or not, you must say not guilty.

Mr Justice Darling

That is the law of England, and a reasonable doubt means this, it does not mean that you do not like to do it, it does not mean that it is disagreeable to you, it does not mean that by some possible hypothesis you can arrive at that conclusion. There is hardly anything of which a really subtle and ingenious mind cannot convince itself; there is hardly any truth that a subtle and ingenious person cannot bring himself honestly to doubt. But it means that you say you are convinced, unless when you consider the facts you have a reasonable doubt as to whether the matter is proved or whether it is not, a reasonable doubt in this sense. If it is the kind of doubt, not such as you would conjure up in the middle of the night, but such a reasonable doubt as in the day time when you are about your business would lead you to say, well, I cannot make up my mind about it. Suppose you were buying a horse or selling one, and you had to resolve suddenly whether he had got some disease, say, spavin. You say, I am not sure he has, maybe he has not, but it is so uncertain that I cannot say one way or the other. That would be a reasonable doubt. Of course, that is not exhaustive as to what is reasonable doubt; I only give you that as an instance, because we are here in the country, and the kind of doubt that a man has to do with in his daily life is the kind of doubt which the law looks to in order to justify a man in saying, when he sits as a juryman in a Court of justice, "I am not convinced of this or that." It has been said here that in this case you are dealing with what is called a case depending upon circumstantial evidence. That is so. There are people, I dare say you have come across them, who will say, oh, it is only circumstantial evidence. Nothing can be more foolish. Circumstantial evidence is as valuable as any other evidence, provided it be good evidence. Circumstantial evidence going to prove the guilt of a person is this, that one person proves one thing, another proves another, and another proves another, and all these converging facts are proved to conviction beyond reasonable doubt. Neither of them proves the guilt of the person, but taken together they do lead to that one inevitable conclusion; and if that is the result of circumstantial evidence it is a very much safer means of arriving at a conclusion than if one witness gets into the box and gives direct evidence and says, "I saw this crime committed." What would you have thought if some one had come and said, "I never was in Mayfield before, I have never been there since, but I went there on the 16th February, and I happened to see the defendant, or let us say I happened to see the deceased, Mrs. Armstrong, go to the bureau and take out the packet of arsenic and measure out 3½ grains, or 6 grains, or whatever you like, and go and fetch a glass of water, and put the powder in, and swallow the stuff and walk upstairs and get into bed, and I heard her say, 'There, that will settle it.'" What would you think if you got that? That would be a piece of direct

evidence, there would be no circumstantial evidence about that. It would prove the very thing that is suggested, that she committed suicide, and the only other thing which would have to be proved would be that she died. But would you believe that? If you find a number of things proved, one thing by one witness, another thing by another, another thing by another, and another by another, and those witnesses not acting in concert, Mr. Davies proving one thing, Dr. Spilsbury proving another, Nurse Allen proving another thing, Nurse Lloyd proving another, Sir William Willcox and Dr. Toogood (because in many things they agree) and Dr. Ainslie proving the same thing, and they all point to the same conclusion, be it the conclusion of guilt or innocence, would not you say there is nothing like circumstantial evidence if you get enough of it trustworthy? And yet it remains that some ignorant people who have not studied the question call this "only circumstantial evidence."

With regard to this particular case, the charge is that the defendant murdered his wife, Mrs. Armstrong. You have had introduced into the case a kind of side issue; it has been said that he attempted to murder Mr. Martin, and you must remember that the charge upon which he was arrested was not the charge of murdering Mrs. Armstrong; that had not then been thought of,* so far as I know; what he was charged with was attempting to murder Mr. Martin. It was for that that the police went to investigate at his office, and it was only after Mr. Martin's illness, after people who knew of that and of the symptoms, were coming to the conclusion that the defendant might have attempted to murder Mr. Martin, it was only then that it occurred to some one, well, Mr. Martin seems to have suffered from arsenical poisoning, these symptoms, this vomiting, this diarrhœa, this pain in the abdomen, the suddenness of the attack, the taking of the food just before it with the defendant in whose house he had never taken food before, unless he had some tea on that occasion when Mrs. Armstrong was alive, all of this led some one or another to think, what about Mrs. Armstrong, what did she die of? Dr. Hincks gave a certificate pointing to natural death, but that certificate was not false; the certificate did not say Mrs. Armstrong died of arsenical poisoning; no, but it did not untruly say that she died of anything. Arsenical poisoning is difficult to detect, and those who considered the case of Mr. Martin, and came to the conclusion that Mr. Martin had had a dose of arsenic given to him, after medical examination, analytical examination, had taken place, those people then came to the conclusion that it would be just as well to look a little further and see if by any chance Mrs. Armstrong died of the very thing which Mr. Martin was supposed to be suffering from—arsenical poisoning. So an order was obtained and the body was exhumed on the 2nd January, the defendant

* Of course it had. See Introduction.—Ed.

having been arrested for having attempted to murder Mr. Martin on the 31st December. What was found in regard to Mrs. Armstrong? Is it a remarkable coincidence or is it not? Those who thought that Mr. Martin was suffering from arsenical poisoning, and had thought that it would be well to investigate the case of Mrs. Armstrong, found on the exhumation of her body that there was still in that body more arsenic than some who are accustomed to deal with these things have found in any exhumed body before. Yet, mind, that body was not exhumed because it was supposed that Mrs. Armstrong had committed suicide; that body was not exhumed at the suggestion of anybody now concerned with the defence; it was not exhumed to prove that Dr. Hincks had given a wrong certificate and that Mrs. Armstrong had committed the felony of suicide—not at all. It was exhumed because a man who had lately had tea with the defendant was believed to be suffering from arsenical poisoning, and it was thought that it might be that the wife of the very man who gave the tea to Mr. Martin had died of similar arsenical poisoning. So when it is said for the defence that the prosecution worked backwords, so they did. What did they find? They found exactly what the most suspicious expected to find; they found that, whereas the poison from which it was said that Mr. Martin was suffering was arsenic, the very same poison was present in extraordinary quantities in practically all the organs of the body of Mrs. Armstrong, and, that being so, what could be said? Could it be said that she took it accidentally? It has not been suggested. It has been said on one side that points to the administration of arsenic with intent to destroy life, and on the other side it has been said it points to suicide.

Something has been said to you about motive. The Attorney-General and Sir Henry Curtis Bennett both addressed you upon that, and, naturally enough, because whenever it is said that a person has committed a crime anybody says, but why? For what reason? In the case of Mr. Martin, what was suggested was that the arsenic was given to Mr. Martin because the moment had come when Mr. Martin and the defendant had reached a point which made the situation very unpleasant for the defendant. Money had been paid by Mr. Martin's clients, tenants who wished to purchase their farms; there was a day for completing and giving them their farms. The day went by, and Mr. Martin was continually pressing that the conveyance should be signed and the property made over to the tenants, and he never could get it done. He said, "I do not care whether your client can do it or whether he cannot do it, but if he does not do it you return me the deposit which you have got"; and Armstrong had got over £500, deposits made by these two gentlemen. Mr. Martin was saying, "You are the stakeholder, you owe these farmers this money, or you owe them the conveyances which will make the land theirs." He has

told you how he was being put off, whether because it could not be done or not you need not trouble, but it was not done. Then Mr. Martin was asked to tea, and he suffered from the symptoms you have heard, and he recovered. He told you how then he was pressed again and again to go and have tea with the defendant, and how it got to this, he was not asked to Mayfield, but the defendant took to having his tea down at his office, it may be for a perfectly good reason; he got a gas ring on which he could heat some water, it may be for a perfectly good reason, but he kept on pressing Mr. Martin to go and have tea with him in his office, and Mr. Martin never would go, and never did go. Sir Henry Curtis Bennett said there is nothing remarkable about it; Mr. Martin took to having tea in his own office. So he did, but he told us why, and the reason he gave was that he wanted to have an excuse for not going to tea with the defendant.

Sir H. Curtis Bennett—One reason.

Mr. Justice Darling—One reason, and a very sufficient one. It is not as though it suddenly occurred to both the defendant and Mr. Martin that they would take tea in their office instead of going home, but the defendant, having taken to it for some reason or another, Mr. Martin took to it because, he told you, he wanted to have a good excuse for not accepting these pressing and constant invitations to go and have tea across the road.

Now, how comes this case of Mr. Martin to be important here? That was a question of law which was argued when you were not present in Court. It is purely a question of law. It was submitted that Mr. Martin's case had nothing to do with this one, and many cases were cited, some to show that it had and some to show that it had not, and the conclusion at which I arrived was that the evidence in Martin's case was material here and should be heard by you. (And, let me tell you, if I was wrong in that, if I decided that point wrongly, and there is a conviction in this case, that will be quite enough to upset the whole proceedings.) Therefore you may depend upon it that I gave my best consideration to it, and I came to the conclusion that Martin's case has a bearing upon this one. What is the bearing? The bearing is this, that it is of value as showing that the defendant had arsenic in his possession, and that he would use it to poison a human being. Let me say at once, if he is not proved to have given arsenic to Mr. Martin with intent to injure and kill him, if you come to the conclusion that he did not do that, then all the evidence given in Martin's case has no bearing whatever upon this case—none at all. But if you come to the conclusion that he did give it, why, then, it has a bearing, as showing that he had got poison and what he was prepared to do with it; as showing that he was prepared not merely to use it on dandelions and things of that kind, but that he

was prepared to use it on a human being if he had what to him appeared sufficient reason to do so.

What is the suggestion now of how he did it? He asked Mr. Martin to tea at Mayfield. He was there before Mr. Martin arrived; it is said he was about in the garden, and the suggestion is that he had in his pocket, or that he might have had at all events, one of these little packets such as he had in his coat in December, and that he put the poison upon the food of Mr. Martin, upon something that Mr. Martin ate, just such an amount of arsenic as was in that little packet, because we know that what was in that packet was capable of killing not only a dandelion, but was possibly a fatal dose for a human being. On what did he put it? Of course, the prosecution cannot tell you on what he put it. Who were there? Martin and Armstrong. Martin did not see him put it on to anything; if he had he would not have touched it. Many, many people have been poisoned, and poisoned with arsenic, some in this country, more in others, but, of course, these people did not see what was being done. No one who had been asked to dine with Cesare Borgia would have eaten anything if they had seen him putting white powder on the victuals. So the prosecution cannot be expected to say exactly what it was that Martin may have taken with that stuff, if the defendant gave it to him. It is suggested that it was a scone; it is said that defendant picked up a scone and handed it to him and said, "Excuse fingers." It is only a suggestion. The prosecution do not pledge themselves to that. Suppose you came to the conclusion it was not in the scone; that is not an end of Mr. Martin's case; there were other victuals. What was there besides? In particular, Mr. Martin told us, there was a currant loaf, and it was cut up and put on a plate, and Mr. Martin said that was placed on a little tin. It was taken off the tin, and it was not placed on the tea table on which the teapot was, but was placed upon another table which was in the window—all this took place in the window, a small space. Mr. Martin said he ate everything that was on that plate. If he did, and if the poison was on that, he would be the only one to suffer if it was on one of those pieces of bread and butter; and he said he ate everything that was on that plate. What does the defendant say about that? The defendant was suspected of having given arsenic to Martin, and the police went to his place, and he made a statement which was taken down in writing. I shall have to come back to that for another purpose, but very early in it he dealt with this tea, and he said this, "I afterwards placed the dish of currant bread by his side on the table and asked him to help himself." That is not the scone, that is the plate of currant bread. That is what the defendant tells us he did, placed it by Martin's side on the table, asked Martin to help himself, and Martin tells us that he ate the whole contents of that plate. The poison may not have been on that,

it may be that there was no poison. It may be the doctors are right who suggest to you that any poison which was in anything submitted to the analyst as being the product of Martin did not contain arsenic which came through Mr. Martin's system at all; it may be they are right when they suggest that Mr. Davies did not wash the bottle properly. It may be Dr. Toogood is right when he suggests the arsenic was on the cork. Mr. Davies took what he imagined to be a new cork, but it is suggested for the defendant that there may have been some arsenic on the cork, and it may be due to arsenic in bismuth or peroxide of hydrogen. It may be that; but the prosecution say no, those are all suggestions, those are all vague possibilities; Mr. Davies is a man of experience, Mr. Davies does not let his new corks roll about in arsenic powder, he knows how to wash bottles properly, and the arsenic came from Mr. Martin. You will find evidence which will show that certainly it might have done so.

Now I take the evidence of Dr. Toogood. He was the doctor called by the defence. Dr. Toogood said this, if you could rely on the arsenic having been found in Martin's urine his symptoms undoubtedly indicate arsenical poisoning, supposing the whole taking and dealing with the urine to have been rightly done. If it was rightly done, and that was not in some way polluted by the bottle or the cork or by bismuth or something or another, then, says Dr. Toogood, if you can rely upon it being found in the urine, that undoubtedly indicated that Martin had had a dose of arsenic. There is other evidence to the same effect. Dr. Spilsbury said this, "The evidence of Martin's symptoms, including the result of the analysis of the urine, 1/33rd of a grain present four days after the beginning of his illness in 17½ ounces of urine"—that being the evidence—"in my opinion Martin's illness was acute arsenical poisoning, arsenic must have been taken into the body." Beyond that there is the evidence of Sir William Willcox—"I am confident that Martin's illness was acute arsenical poisoning." That is after he has listened to all the evidence that was given as to when Martin began to be ill, what he suffered from, what is the result of the analysis, and so on. That agrees with Dr. Spilsbury, and it agrees with Dr. Toogood, so that they all agree about that. Therefore, you try and come to a conclusion as to whether Martin really did suffer from arsenical poisoning. If he did, of course that does not prove that the defendant gave it to him. But then consider all the circumstances of his going to tea and what he had; consider that the defendant had arsenic in his possession at that time; according to his own evidence, he had white arsenic in his possession at that time. When he was arrested he had a little packet of it in his pocket.

Consider all that, and if you come to the conclusion that Martin did get with some food or another arsenic and suffered from arsenical poisoning, then ask yourselves, how did he get

it? Did some one give it to him? If so, who—and where did he get it? Then it is important to consider when all these symptoms developed and how they developed to some extent before he had any other meal than that which he had taken with the defendant. He went home, he began to feel ill, and did not want his dinner. His wife persuaded him to have some, and he ate some. He was persuaded to eat, and he did eat, and he tried then to do some work with his clerk, but he could not work. He was taken ill, and you have heard about the diarrhœa and vomiting, and so on. In fact, the doctors agree that the symptoms were those of arsenical poisoning. If you come to that conclusion, then ask yourselves before you go any further with the case whether you are satisfied that the defendant did give that poison to Martin. It is quite true he is not being tried for that as a substantive crime. You will not be asked by the clerk of assize to say, was he guilty of trying to poison Martin? You will only have to make up your minds on it as a part of this case, as helping you to come to a conclusion whether Armstrong poisoned his wife or not, and if you come to the conclusion that he did try to poison Martin, then you can start with something which will be a guide to you, a help to you, as to what the man would do with the poison he had got, whether he would use it against a human being or not if he had what was considered a sufficient motive. If you do not make up your minds that he did administer poison to Martin, then that is out of the case as absolutely as if the name had never been mentioned in the course of these proceedings.

(Adjourned for a short time.)

Mr. Justice Darling — Gentlemen of the jury, when we adjourned I had finished what I thought necessary to say to you about the case of Martin, and it all comes to this, that if you come to the conclusion that the defendant did try to poison Mr. Martin, and if that is your conclusion on the whole of the evidence, then it has a great bearing upon his conduct with regard to his wife, Mrs. Armstrong, although what is alleged with regard to his wife commenced months before the tea he gave to Mr. Martin; and, as I have said, if you come to the conclusion that there was no administration by him of arsenic to Martin, then the Martin case may go out altogether and you will think no more about it, and I do not want, if I can help it, to allude to that matter again.

Now I come to the question of Mrs. Armstrong's illness. It would appear that the defendant and his wife lived on affectionate terms apparently till her death, but certainly till the year 1920. She seems to have been an invalid, and one would think a tiresome invalid too. She suffered from melancholia, and was given to

what was called introspection; always worrying, and thinking she had not done her part in that or this direction, so that one can imagine she would be somewhat tiresome to anybody who had to live with her. But that she was very fond of her husband and children every one agrees, and her worrying was greatly caused by a fear that she had not done her duty to them in various directions. She suffered from what is called neuritis for a long time, and she found it difficult at times to play the piano, because the neuritis affected her fingers. How the neuritis was produced is a matter of opinion, but that in August, 1920, she was in ill-health there is no doubt. She was so ill that not long afterwards she was taken to the asylum at Barnwood, because she was suffering from various symptoms showing she was not then in her right mind. She had delusions of various kinds, and the doctors who were called in by the defendant certified that it was a case in which she required to be kept in an asylum, which she was told was a rest home, in order that she might get better, and she did get better and came out. At that time, when she was taken to the asylum, there is considerable contest amongst the doctors as to what was really the matter with her, whether it was peripheral neuritis or something else, or rheumatoid arthritis or something different, and I do not know if we shall ever get to know exactly what it was, and perhaps you will be unable to arrive, with any certainly, at what she was suffering from at that time, but the doctors for the prosecution and the defence all agree that she was suffering from poison. The doctors for the defence called it auto-toxæmia—that is to say, a poison. Some of the doctors called it auto-intoxication—that does not mean it is a poison which acts for a time on the brain like beer or gin and passes off and the person becomes sober again. Auto-intoxication does not mean that the person is drunk. What they mean is that a poison is working in the system which has arisen not from something originating outside, but that it has grown up within the system, that some organ has gone wrong—the kidneys or what not—and that some organ does not perform its proper functions, and has thus created in the body a poison which produces this, that, or the other disease; and the doctors say that is the result of auto-intoxication. But it is said by the prosecution this was not auto-intoxication at all; it was toxæmia, that is quite true; it was a poison, and they say that it was due to the introduction of a poison in the system from outside, and the suggestion is that that poison was arsenic. You heard the doctors on both sides describe the symptoms, and the doctors for the prosecution, Dr. Spilsbury, Sir William Willcox, and Dr. Hincks, are all of opinion that the condition before she went to the asylum was due to her having been poisoned with arsenic. Dr. Toogood and Dr. Ainslie and Dr. Speed came to the conclusion, they tell us, that it was auto-toxin—that it was poison, but poison produced within the body

of Mrs. Armstrong herself. Now I do not think I should do any good, for you have been addressed on these matters at considerable length by counsel for the defendant and counsel for the prosecution, by reading over to you the evidence of those doctors and indulging in a kind of discussion as to whether the symptoms were due to poison with auto-toxin; for if you come to the conclusion that the defendant had administered arsenical poison it may help you. If you come to the conclusion that he could not have done it, you will say it must have been auto-toxin and not arsenical poisoning. The symptoms were very peculiar, and her recovery in the asylum and her taking a tonic in the asylum make it somewhat obscure; but if you doubt that the defendant did attempt to poison his wife before she went into the asylum, and have a reasonable doubt about it, then you must come to a consideration of the events of 1921 with a mind that is free from suspicion that he attempted to poison his wife towards the end of 1920.

Now, if we come to 1921 she returned home, and on the 22nd January—exactly a month to a day before her death—she was pretty well, and for some little time she went about her ordinary duties, taught the children, dined downstairs, and took all her meals downstairs for a considerable time, and then she got ill. I shall find it necessary to read to you the account of her last illness, for it is very important that you should have in your minds exactly the course of things after she came home. She ultimately died on the 22nd February, after getting worse and worse. There is no evidence that she was downstairs again after the 14th February.

Sir H. Curtis Bennett—There is the evidence of the prisoner that she was downstairs on the 16th teaching her boy.

Mr. Justice Darling—Yes, but not out of doors. The evidence about being out of doors was that there was one day when she sat out in the porch in an eiderdown and with a hot-water bottle to her feet. To do that she must have been very ill. It is only an invalid who would have to sit in that way in the verandah in front of the house; and Nurse Allen, whose notes are all gone and destroyed somehow, is of opinion that was on the 13th February.

Sir H. Curtis Bennett—The 11th or 12th.

Mr. Justice Darling—Well, put it at the latest date. She thought, I think, it was the 13th. A witness was called, Mrs. Price, and it was not suggested that you should not trust her, and she says she remembers the occasion and can fix the date as 14th February, and no one contends that after that day she was ever outside the front door. That was eight days before her death, and the prosecution accept it. I understand that it was the 14th and not the 15th, but it does not make any difference.

I am afraid it may be a little tiresome, but I will now read to you the evidence on this. Eight days after she died, and the defence say she might have lived—they say she died undoubtedly of a dose of arsenic, that she had arsenic after she was last downstairs. They fix the 16th. They say a dose of arsenic was taken probably on the 16th February, and that she took it herself purposely, intending to kill herself. They have given evidence about it, and the doctors called our attention to her condition. They cross-examined Dr. Hincks and the nurse, and so on. That is the affirmative case put for the defence. They put two cases, the affirmative and negative. They say first of all, "We will prove it affirmatively to you—we shall satisfy you that she committed suicide. We will call evidence that she must have taken such a dose about the 16th as killed her." On the other hand they say, "Suppose you are not satisfied that she committed suicide, then there is the negative case." There is the case that you may be in doubt as to who gave her the dose of poison that killed her, because they do not dispute that she did die on the 22nd February at ten o'clock in the morning of arsenical poisoning; and they say first, "We will prove she took it herself; but if we fail to do that it does not follow that you should find the defendant guilty, but you may be still satisfied that she died by a dose, or many doses, not administered to her by the defendant." It is for that reason that I must read to you the evidence of her last days—the evidence of those who saw her and had to do with her during those days, and not the evidence of those who theorise either on the one side or the other.

Mr. Vachell—Nurse Kinsey is the one the Attorney-General called attention to first.

Mr. Justice Darling—Yes. I was going to begin earlier than that, because you will remember that I said to you the suggestion of the defence is running through all this time. I am going to deal with the suggestion that she committed suicide, and we shall see now what there is to show that. If you look at the evidence of Miss Pearce she says this, "After the deceased returned from the asylum one day she went up to the attic. She came down and asked whether if any one threw themselves out of that window they would break their back. She told me then at the asylum she had tried to get out of the window, but it was fastened." Now that is a general question. She went up to the attic, and came down again. She did not throw herself out of the window. She asked the nurse whether if she threw herself out of the window it would break her back, and said that when she tried to get out of the window at the asylum it was fastened. What would happen to a person in an asylum who wanted to escape? Would not they try to get out of the window, and if the window were fastened would not they give it up? In an asylum is not that exactly what you would expect? People in an asylum do not

necessarily want to stay there. The people who keep those asylums want to keep their patients in, and is not it therefore natural if she wanted to get away from the asylum that she should attempt to get out of the window? But she found it was fastened, and there is no suggestion that she attempted to kill herself. She made that observation, according to Miss Pearce, about what would happen if any one were to get out of the window.

The next mention of it appears in the evidence of Mr. Chevalier, and Mr. Chevalier said this. He was staying in 1920 at Mayfield, and he said, "I thought the deceased was in an excited state of mind, and I warned the defendant that she might attempt suicide, and said she was suffering from delusions." It is true that a person suffering from delusions may attempt suicide. He does not say he had any definite fact to lead him to suppose she would—not that she would, but might. "I said she was clearly suffering from delusions, and she said she was a wicked woman and likely to bring her family into trouble." That seems to have been one of her delusions. "I advised him to take his razors from the room. He put them in my room. I warned Lily Candy to keep watch on the deceased." That was in 1920, and the suggestion is she committed suicide somewhere about the 16th of February, 1921. That is a long time to pass, but she had come back, and she was going about the house and teaching the children for several days. There is no evidence that she ever made during that time any attempt whatever to take her life.

I now come to, and I will read to you, the evidence of Nurse Kinsey. On the 23rd January, 1921, she went to Mayfield on a telephone message from the defendant. "He said Mrs. Armstrong had just come from a mental home." She went to her morning and evening, and she was rather weak and not able to look after herself, and she was able to stay with her during the day a great deal. "I found her physical condition good—her mental condition weak, and I went between nine and ten in the morning and seven and eight in the evening. In the morning she was usually in bed. I dressed her, and usually took her to the drawing-room. She walked quite well up and down the stairs, and up and down the house. I undressed her for bed. I went on doing this till the 27th January. Then Nurse Allen came. Dr. Hincks came once while I was there in the evening of the 26th January. On the 10th February (twelve days before her death) I saw her. The deep discoloration of her skin surprised me, and she was very weak. She complained of severe pains in the stomach. She was lying on the sofa in the drawing-room. The defendant was with her, and she was sometimes alone." That is on the 10th February, and there is no suggestion that she took poison to kill herself till the 16th. Then she says, "While I was there the deceased told me she had taken two pills. She used to take Dr. Andrew Clarke's digestive pills, and all the family did. The defendant told me so, and said she took

them for indigestion, as she sometimes did. She told me she vomited during the night, and after taking the pills." The witness called again after she left. "This I was told was on the 27th January. The day I left the place was on the 26th January. I had left her in bed that day at eight to 8.30 in the evening. While I attended her I never saw her vomit. I was only told she did. The defendant sometimes slept in her room and sometimes in a room opposite. On the 10th February her skin looked jaundiced, and she was very pale round the mouth. She told me she was very sick and suffering great pain." That is very important—that is on the 10th February when she said she was very sick and suffering great pain, and there is no suggestion that she made an attempt to poison herself then. The witness is cross-examined, and she said, "The defendant and Mrs. Armstrong seemed a very affectionate couple. He was very attentive to her. At first he said he thought he and Miss Pearce would be able to look after Mrs. Armstrong. On the 27th I had supper with Mrs. Armstrong. She told me that she thought she had an attack of indigestion, and had taken two pills for safety, and had been sick during the night. She told me that nothing would persuade her to take medicine again, as she thought she had been poisoned by medicine in the asylum, and in future she would only take her homœopathic medicines. I have had no experience of mental cases."

Then Nurse Allen is called, and she said, "On the 27th January, 1921, I arrived at Mayfield in the evening, and took charge of the deceased until her death. At first the deceased was very frail, but had a very good appetite, and took her meals in the dining-room with the family. On the 13th February she lunched with us, and then started vomiting. On Wednesday, the 16th February, Dr. Hincks was sent for, and I thought the deceased was worse; her colour was very pale. She took food and vomited. There were two bottles of homœopathic medicine—nux vomica was one of them." I may get rid of a great deal of this homœopathic stuff. It has been stated by the defence that no reliance is placed on her having injured herself by her taking homœopathic medicine. It is taken in such small quantities that if it does not do good it does no harm. "I gave the deceased some of the homœopathic stuff with the doctor's consent. Until 22nd February I believe Dr. Hincks came every day. During the last four days of her life I used to feed the deceased." That is very important—the 18th, 19th, 20th, and 21st. "She was in bed and so ill that she could not feed herself. She did not to my knowledge get out of bed after the 13th February." She was wrong about that, if you take it that Mrs. Price saw her on the verandah on the 14th, but Nurse Allen's opinion is that she did not get out of bed after the 13th. "The deceased could not move her legs about much—they seemed paralysed rather. The deceased was conscious on the 22nd February, and died at 10 a.m. About 4 a.m. that day she

said, 'I am not going to die, nurse, am I, because I have everything to live for—my children and my husband.' " Those are the exact words she used, but the suggestion is that she took a dose of arsenic on the 16th February meaning to kill herself. The deceased was conscious until 8 a.m. on the 22nd February, the day she died, and at about 4 a.m. that day—six hours before her death—she said, "I am not going to die, nurse, am I, because I have everything to live for—my children and my husband," and if you believe she said that (and it is not questioned that she said it) —do you believe that woman had already, with intent to kill herself, taken a fatal dose of arsenic? Let alone the question of whether she could have got it if she wished, or put it into her mouth if she wished—do you think the use of those words six hours before her death reconcilable with the theory that she committed suicide? (The learned judge continued to read notes of Nurse Allen's evidence.) "I have been relieved by the defendant, and have found him alone with the deceased on my return. I had been away twenty minutes or half an hour." That is important as bearing on the question of whether he had the opportunity of giving her arsenic or trying to do so. . . . "At the foot of the deceased's bed, on the wall over the fireplace, there was a medicine chest" —but I need not read anything about this, because it is not suggested that she could get out of bed and help herself from it.

Sir H. Curtis Bennett—The only importance of it is that no search was made. It is not suggested that she took any dose from there after the 16th. The point I cross-examined about was that nobody ever searched that medicine cupboard during Mrs. Armstrong's lifetime.

Mr. Justice Darling—Then I will read it. "On Saturday, the 19th, the medicine cupboard was standing on the floor at the foot of the bed. If you held on to the bed you could touch the medicine cupboard. I never examined the contents of the cupboard." There is no suggestion that arsenic was in that cupboard, and that she got it out. There is evidence to which I will call your attention that there was arsenic in the cupboard downstairs.

Sir H. Curtis Bennett—No, my lord, in the bureau.

Mr. Justice Darling—But arsenic was there at the time the defendant was arrested. It was arsenic coloured with charcoal in the cupboard and the bureau, but there is no evidence that there was arsenic in that cupboard in the bedroom. "After Sunday, the 27th January, the deceased could not get out of bed for natural purposes. She was very weak, and if she had tried to get out of bed she could not have done it." Then the depositions were put to the witness and she said, "She could not get out of bed for natural purposes. On Sunday, 20th of February, the deceased had diarrhœa, and it continued till her death on the 22nd February.

On the 22nd February, at 8 a.m., the deceased was quite conscious. The defendant came in and kissed her. They had some conversation which I did not hear." That was about four hours after she said to the nurse, "You do not think I am dying, do you? I have everything to live for—my children and my husband." Dr. Hincks arrived at 9.30 in the morning, and the defendant came with him to the bedside, and the deceased died exactly at ten in the morning. "I next saw the defendant about 1 p.m. I was in the deceased's room after her death till about 1 p.m. I did not see the defendant before 1 p.m. At 9.30 a.m. the deceased was unconscious."

Then she is re-examined and she says, "After Sunday, 13th February, the deceased never came downstairs, but took all her meals in the bedroom and had nothing solid but the calf's-foot jelly. The deceased used to take kettle broth and Benger's food the last four days, because she was very anxious to get better." That would be the 18th, 19th, 20th, and 21st. The suggestion of the defence is that she took a fatal dose of poison before that—on the 16th about; and here is that woman, who they suggest committed suicide, taking Benger's food and soda and milk during the last four days, because she was very anxious to get better. The prosecution on that say it is incredible that a woman who was anxious to get better was bent on suicide and two days before took a fatal dose of arsenic. "On Monday the deceased sat up in bed to vomit. During the last four days of her life she could not get out of bed." And then the witness said to me, "During the last four days she did not to my knowledge get out of bed at all. I do not think she could have done it. I gave her the utensil in bed. She was very ill. I do not think it possible that after the 13th February the deceased could have got out of bed and have got anything out of the cupboard over the fireplace; and during the last four days she was weaker."

Now I come to Nurse Lloyd. (Reads evidence.) Now in pursuance of what I said I will read the evidence of Dr. Hincks. (Reads notes of evidence.)

"After she came back from the asylum I saw no return of the delusions, and her great anxiety always was to get better." Yet it is suggested that it was at that time that she made up her mind to commit suicide, and carried it into effect in a manner which we have simply been left to guess at. "I was never spoken to about her tendency to suicide. I did not from anything said to me by her or any one or from anything I observed suspect her of a desire to take her life. On the 17th February I saw the deceased; she was in great pain. I gave her an injection of morphia for the abdominal pain and for sleeplessness. She frequently vomited. On the 18th she was worse, and losing flesh tremendously. Her tongue got brown and dry, and sordes were present; that is, the skin over the tongue which has come off and

accumulated round the tongue and throat. That occurs in any case of serious illness shortly before death. On the 19th February she complained a great deal of flatulence. I gave her tabloids, but I think she did not take them. They were beta naphthol and charcoal. I told the nurse to give her an enema, she was in constant abdominal pain; on the 20th she was getting weaker and weaker, and had taken no food. I ordered her some nutriment suppositories." He described how they were given for those who cannot retain food. "Nurse kept a proper report, which I saw daily. About Friday, the 18th, I told the defendant there was nothing to be done and she would die. On the 21st the suppositories were probably given. On the 22nd I saw her about nine in the morning. She was unconscious. The defendant was in her room. He asked me, and I said she would not regain consciousness, but she might last the day, you could not tell. Later in the morning I received a message that she was dead. I gave a certificate of death. I doubt whether deceased ever left her bed on the 16th February. After the 18th she certainly never did; I mean for any purpose whatever. I do not think she could move her legs at all. On the 16th or 17th she could not hold up a cup to her lips, and could not use her arms, and could not grip anything firmly."

Do notice this, gentlemen. The defence is saying on the 16th she helped herself to a fatal dose of arsenic, six days before her death. In order to show the importance of this, you heard cited from a book the case of the Duc de Praslin, who is said to have taken arsenic in 1846 and to have committed suicide, and to have lived six days after he took the arsenic. Calculating back from her death, which was on the 22nd, six days, you get to the 16th. This is Dr. Hincks. This is not theory; this is not calling eminent doctors to say, "I have heard the evidence and I have read Witthaus's book." This is the doctor who really attended her, and everybody, the doctors, honestly said, yes, he is a perfectly competent doctor, as good as the others, a local doctor; of course, the others are specialists, they know as much about arsenic as anybody can possibly know at present; but Dr. Hincks, as everybody agrees, is a perfectly competent doctor, and he is asked this, and what he says about her on the day when she is supposed to have got up and to have gone somewhere and got poison and taken it is, "On the 16th or 17th she could not hold up a cup to her lips." Is it suggested that she said, "I want to poison myself; I will have a cup"? No. "She could not hold up a cup to her lips, and she could not use her arms, she could not grip anything perfectly. Certainly she could not have fed herself at all during the last four days of her life. We call this condition paresis. She couldn't lift herself up in bed. I think the deceased had heart disease from about 20th February." About nephritis he says it is inflammation of the kidney, Bright's disease. "At the time of her death I had formed the opinion

that the gastritis was due to toxæmia, that is, a collection of poisons in the system due to inefficient action of the kidneys. Kidney disease was secondary to the heart disease, which I then considered was rheumatic in origin. Toxæmia is poison in the blood. Knowing that arsenic was found in her body, my opinion now is that her illness before she went into the asylum was caused by arsenical poisoning. There she had a remission of her symptoms; and her last illness after her return was caused by a fresh dose of arsenic, not all taken on one day." That is the opinion of the doctor who has attended her for more than a year, the doctor who was with her to the last. He did not put in his certificate that she died of arsenical poisoning; but he did put in all these things—nephritis and all the rest, which meant she died of a poison, toxæmia, and at that time he was of opinion that the poison was caused by the disease. But when she was exhumed, and when, as is indisputable, it is proved her body was full of arsenic, and when everybody agrees that she really did die of arsenical poisoning, there is nothing inconsistent in all that with what he noticed before death; only he did not know that some one had introduced into her stomach arsenic. When he once knows that, knowing that arsenic was found in her body, he says, "My opinion is that her illness before she went into the asylum was caused by arsenical poisoning; there she had a remission because no one could give her a dose in the asylum, and her last illness after her return home was caused by a fresh dose of arsenic, not all taken on one day." That is as important evidence as can be given in this case, because it is not merely the evidence of an expert, of a theorist, it is the evidence of a competent doctor; and it is the evidence of the one doctor who attended her before she died and up to her death. He says, "I think the paralytic symptoms were due to arsenical poisoning, to the taking of a large dose of arsenic about the 3rd February. That is my opinion, but it is a guess. The later symptoms of acute gastritis were due to continued large doses of arsenic, such as a grain administered from time to time; and the fatal termination was due to an absolutely poisonous dose, anything over 2 grains. The deceased was an absolute teetotaller, she took homœopathic medicines." I will not go into that, no point was made of it, but if anybody wishes it I will go into it. Then Friday comes, and his examination continues. He went into the case of Mr. Martin, with which I have dealt sufficiently. Then Dr. Hincks was cross-examined, and he says he has been in practice since 1898, "I never before in my private practice had a known case of arsenical poisoning come before me. About August, 1901, I had in hospital a case where it had been accidentally taken in beer; I was house surgeon. I believe the patient recovered; he was under my care three months; no arsenic was given during the three months. During the course of my attendance on Mrs. Armstrong up to her death I noticed nothing inconsistent with natural causes." Up to her

death he noticed nothing inconsistent with natural causes; and that accords with the certificate that he gave. Then the certificate was put in. "If the disease were due to a long course of rheumatism, I think there was sufficient history of rheumatism to account for that." Then he went into the question of nephritis, Bright's disease, and gastritis, as connected with his certificate; he told how he attended her in 1920, and came to August, 1920. "I went to see her on the 21st. Defendant and Mrs. Armstrong were present. Mrs. Armstrong had delusions on the 22nd, she was taken to the asylum, she did not then seem to be suffering from neuritis, she had no symptoms of it. The deceased was always pallid, a pale woman. There were no symptoms inconsistent with natural illness; the symptoms were then melancholia. Indigestion may cause poisoning, but that cannot cause arsenical poisoning. In my opinion there must be something beyond indigestion to cause multiple neuritis; but all cases of multiple neuritis that I have ever seen have been the result of some definite disease."

Then there is a letter from the asylum; and then he goes into the question of his visits on the 6th and 11th February, 1921. On the 11th she complained to him of failing in the legs and arms and feet; she had not that on the 30th January or on the 6th February. "In my opinion all the symptoms of multiple neuritis had vanished when the deceased returned from the asylum on the 11th February; on the 21st they had returned, the high-steppage was a symptom of it; the numbness of the skin was not present. On the 11th February I did not notice blue lips. On the 15th I was telephoned for. There was an urgent message from the defendant. The deceased was pallid, had been retching and vomiting; that would not account for the intense agony she was in over the abdomen on the 17th February. I do not recollect Nurse Kinsey saying anything about suicide; I had no fear of that. On the 18th February nothing particular; I do not remember any improvement in the condition between the 16th and her death. She could not have fed herself during the last four days of her life. On the 22nd February in the morning the deceased was unconscious when I arrived, and there was nothing to be done." Then he was re-examined. I will come to January, 1921. He says this, "On the 25th I first saw the deceased after her return from the asylum; she was perfectly able to walk; she was physically pretty fit, mentally much improved. On the 11th February the high-stepping had returned, she was then suffering from multiple neuritis, of which she had no symptoms on the 25th January. On the 16th February the deceased had very intense pain in the abdomen. It is absurd to suggest that it was the result of vomiting. After her return from the asylum I never had a suspicion of suicide. She did not believe in doctors; she was very anxious to get well; but I always felt that she did not think I knew what was the matter with her." She had some sort of feel-

ing that Dr. Hincks did not understand her. We now know that he did not suspect arsenical poisoning; and if she thought that he did not understand what was the matter with her she was quite right—he did not.

That, gentlemen, concludes the evidence of those who actually saw Mrs. Armstrong after she came back from the asylum, except the evidence of the defendant himself. Perhaps I had better read what the defendant himself said. I am not going to read the early part of it, I am dealing with the last illness. (Reads evidence.)

That is the evidence of those who were about with her during the last days of her illness. There is the evidence of her state of mind; there is the evidence of her wishing to live; there is the evidence of what she was able to do. The importance of all this is, that you must ask yourselves (it is one of the points raised), are you satisfied that she committed suicide? When I read the rest of the doctors' evidence for the other part of the case, there may come in statements which will have a bearing upon that. But if you come to the conclusion that she did commit suicide, then there is nothing upon which you can possibly convict the prisoner; he is as innocent as you or I. But if you do not come to the conclusion that he is, you must consider the rest of the case, and you must now ask yourselves, on that evidence that I have just read to you, do you honestly believe, is it credible, that that woman, being in the condition in which she was, got up with the intention of taking a fatal dose of arsenic, and that she went and got it? What evidence is there that at that time she intended to commit suicide, or ever wished to do it; what evidence is there that she got up and went to any place where there was arsenic? Where was it? If it is suggested that she took arsenic and committed suicide, where did she get it from? The defendant had had arsenic about the house for years for making weed-killer; and he says that she knew there was arsenic in the cupboard in the study. But if she did, the arsenic in the cupboard in the study was the grey arsenic, so far as we know, the arsenic with charcoal — there is no harm in the charcoal.

Sir H. Curtis Bennett—The evidence is that at that time white and coloured were both in the cupboard.

Mr. Justice Darling—At that time?

Sir H. Curtis Bennett—Yes, from the 11th January.

Mr. Justice Darling—A month and five days before the 16th February. We now have the evidence given by the defendant, that there was white arsenic in the bureau.

Sir H. Curtis Bennett—It was not in the bureau till May; in the cupboard.

Mr. Justice Darling—In the cupboard in the study in which the bureau was. In the cupboard, if I am right, there was grey

arsenic and white arsenic. If it is suggested that she committed suicide by taking either the one or the other, either the grey or the white, which did she take, where did she take it from, when did she take it? At all events it was downstairs. There is no evidence that there was any of it upstairs; and if you were asked to find a verdict as to whether that woman committed suicide or not, on what evidence could you find that she did go and get a dose of arsenic, either grey or white, and take it in order to commit suicide? That is one part of the defence. They set up that before you as an affirmative, and they ask you to come to that conclusion, and if they can make out that, if you come to that conclusion, it is perfectly plain, as I said just now, the defendant is no more guilty than you or I.

But suppose you do not come to that conclusion, the prosecution have still to satisfy you that it was the defendant who poisoned his wife. If you come to the conclusion that she did not do it herself, that does not prove that he did it; somebody else may have done it. Let us see what is the evidence as to that. It depends on this. The doctors for the defence say that at the last there was taken a great dose of arsenic. Up to the time when that was taken there was a poisoning not due to arsenic, but to toxæmia, as going to show you that she died of a dose of arsenic which could not have been given, as the prosecution suggest, in small doses by the defendant, but given in one large dose by herself. Since the defence agree that she died of a dose of arsenic, they say that she died of a large dose taken about the 16th, and that she was not suffering from arsenical poisoning before that date.

Now we come to the contest between Dr. Spilsbury and Sir William Willcox on the one hand, and Dr. Toogood and Dr. Ainslie and Dr. Steed on the other. First of all, look at the evidence of Dr. Spilsbury, because he really saw more of this case than any other doctor except Dr. Hincks. Dr. Spilsbury never saw her alive; he was called in for the post-mortem, and Dr. Ainslie was present representing the defendant, and saw what was done, so he saw then the condition of things just as Dr. Spilsbury did, although Dr. Spilsbury conducted the post-mortem, took out the parts and sent them to Mr. Webster. He said he made the post-mortem on the 2nd January; he described the condition of the liver, and so on, and he said, "I could find no natural disease to account for the condition of the liver and kidneys. I attribute the condition of the liver and kidneys to the presence of arsenic in poisonous doses." That the defence do not dispute. He said, "In life I should expect albumen in the urine as the result of this condition. The intestines were almost empty, dark in colour, rather dry; there were some fluid contents in the part of the small intestine called the jejunum, the small intestine nearest the stomach." Then he described how the intestines are

arranged, and so on; I do not think I need go into this minutely, because the defence agree that she died of arsenical poisoning. But there is some point as to where the arsenic was, because the different doctors attach importance to that. He said, "I am familiar with cases of arsenical poisoning. After swallowing food with arsenic in it, the time till evacuation of the food would vary, but it would be within twenty-four hours or a little longer. The arsenic hastens evacuation; with fluid it passes quicker. The irritant action of arsenic leads to the more rapid passage. The irritant action is first in the stomach, causing first of all pain and nausea, and later vomiting. It sometimes produces bleeding into the stomach cavity. The blood would colour the vomit a dark brown, or a dirty colour. After getting into the blood, the arsenic would affect the heart, and bring about dilatation and quickened action, and dilatation would be likely to be accompanied by a murmur." He describes the kidneys and says, "I am certain that the condition of her kidneys, heart, and liver was due to arsenical poisoning." That is very important, because he said there was damage to the liver, damage to the heart, and damage to the kidneys; and he says, "I am certain that the condition of the kidneys, heart, and liver was due to arsenical poisoning." The suggestion for the defence is that the arsenic was taken only six days before her death. As to the intestines, it was impossible to say whether the inflammation was there at the time of death, owing to post-mortem changes. Then he goes into the question of the time before she went to the asylum, and, unless it is desired, I will not return to that part of the case.

Sir H. Curtis Bennett—There is one matter. In cross-examination Dr. Spilsbury said the condition of the liver and the kidneys that he found was consistent with one dose of arsenic six days before.

Mr. Justice Darling—I shall come to the cross-examination; will you remind me of that then in case I do not remember it? He described how he sent considerable portions of the inside of Mrs. Armstrong to Mr. Webster, and everybody has said that he is a most competent analyst. Dr. Spilsbury said, "I know the result of Mr. Webster's examination and analysis; from the amount of arsenic present in the large and small intestines, it is clear that a large dose, possibly a fatal dose, must have been taken within twenty-four hours of death." That is most important. If he is right about that, the whole theory of the defence is impossible as to her taking arsenic and killing herself, because for more than twenty-four hours before her death, for a good long time she could not move hand or foot, she was lying at the point of death. Dr. Spilsbury says, "From the amount of arsenic present in the large and small intestines, it is clear that a large dose, a possible fatal dose, must have been taken within twenty-four hours of her death,

and from the amount of arsenic found in the liver, over 2 grains, and from the disease of the liver as I found it, it is clear that arsenic must have been given in a number of large doses extending over a period of several days, probably a week immediately before death." That is the opinion of Dr. Spilsbury. If that is true, if he is right in that, it is perfectly impossible, perfectly impossible that a dose can have been taken by her, one large dose, on or about the 16th February. According to him, there must have been several doses, they must have been extended over a period of several days immediately preceding death.

Let us consider who these doctors are. It is for you, you have been told you are the judges of this case, not I. Do you remember Dr. Spilsbury, do you remember how he stood and the way in which he gave evidence? Do you remember or do you not remember how, if there was any qualification to be made which told in favour of the defence, he always gave it without being asked for it? Did you ever see a witness who more thoroughly satisfied you that he was absolutely impartial, absolutely fair, absolutely indifferent as to whether his evidence told for the one side or the other, when he was giving evidence-in-chief or when he was being cross-examined? You should recollect and consider the demeanour of every witness in every case that you try; it is most important; and when you consider Dr. Spilsbury, when you have to say whether you trust the opinion that he gave, you are entitled then to remember his demeanour, and to form your own opinion as to what it was, and to act accordingly. As to what he said, you will judge whether you agree with it, whether you think it well founded or do not. He was asked about Mr. Martin's case, and he gave his opinion about that. I think I read that before I read the evidence of Dr. Toogood. Then he was cross-examined. He said as to the post-mortem examination, "I worked downwards from the stomach, opening the small intestines; no fluid flowed down, it was more of a deposit; the cæcum is the beginning of the large intestine, more fluid was there; as to arsenic passing through the body, the time varies very much in different cases. It is affected by whether it was taken with or without food, and whether taken liquid or solid. There are occasionally cases of arsenic taken as long as seven days before death remaining in the body. If a large dose were so taken, you might find arsenic absorbed in the liver and traces in the cæcum. Then I should expect to find fatty degeneration of the kidneys. I should expect to find a dilatation of the heart. If a dose were taken six or seven days before death, I should expect a gradual diminution of the vomiting, constant vomiting at first, getting less before death. The diarrhœa would have diminished, and might cease from exhaustion before death. It is more than a possibility that a person might take a large dose of arsenic and live seven days. Cases are quoted. I should not expect an

easing up of the vomiting and a recommencement of it; in that case I should expect to find another disease. I remember a case in which a cyst of arsenic was formed in the stomach, and, as far as my recollection goes, the patient died rapidly. I can't agree to two days' sickness after a single dose, then a remission due to encysting in the mucus, and then a renewal of the vomiting." You were told what a cyst was. Cyst was introduced by the defendant to account for arsenic given in a large dose, a remission of the symptoms, and then the symptoms coming on again. The theory is, arsenic gets covered with something, becomes enclosed in a kind of capsule, and gets loose afterwards and starts the symptoms again. "Under certain conditions of disease vomiting from arsenic might continue for one or two days and then diminish or cease, and then recur a day or two later. In such a condition as Bright's disease, chronic disease of the kidneys, I would not say there might not be this. Assuming deceased was not suffering from arsenical poisoning in August, 1920, there were symptoms of kidney damage, the disappearance of albumenuria within a week of entering the asylum excludes Bright's disease. A person may take a dose of arsenic, and gradually sink, and die seven days later without any disease. If there was vomiting at first, and then cessation, then recurrence, then death, I should expect the presence of Bright's disease." That was not so with her, according to him. "I dare say it is conceivable that under special conditions a person might live fourteen days after a fatal dose."

Mr. Vachell—"It is conceivable and may have been recorded"—I took that down.

Sir H. Curtis Bennett—My note does not agree with that; I am content with your lordship's.

Mr. Justice Darling—It doesn't seem to me to matter. "The symptoms would change in character; five to eight days are quite possible and not very infrequent. I draw a distinction between suppression of urine and retention of urine; in deceased's case, it was either complete suppression or very great reduction of urine. It would be very unusual to retain urine for twenty-four hours. It would be almost impossible in most cases. New surroundings, &c., might lead to retention of urine. She may have suffered from retention with reduced secretion. Vomiting would account for reduced secretion. The longest case I know of myself where arsenic has been found in urine after a possible fatal dose"—I have not got exactly what it was.

Mr. Bosanquet—"Ten days"—I have got a note of it—"but three weeks is a possibility."

Mr. Justice Darling—"If a person is suffering from arsenical poisoning, I think 1/7th of a grain a day would not aggravate the symptoms, but it would retard recovery; in this case the arsenic tonic tended to make the deceased better. About 1/5th of what

Mrs. Armstrong took daily was found in Mr. Martin's urine." Then there were questions I need not go into about the glucose containing arsenic and bismuth containing arsenic; they applied to Mr. Martin's case. Then he was re-examined. He says, "The twenty-four-hour period applies only to that portion of the arsenic which passes away by the rectum, not at all to what is absorbed by the other organs; that may remain three weeks. I do not think the case put for the defence explains the state of things existing in Mrs. Armstrong, in whom there was no pre-existing disease. Mr. Webster found over 2 grains of arsenic in Mrs. Armstrong's liver. That shows that the arsenic she took was not encysted." Encysted means enclosed, as in a box. "There must have been very rapid absorption from the stomach and intestines; no encysted arsenic was found in the stomach or in the intestines." That is dealing with the theory put forward by the defence to account for something—that the arsenic got boxed up. "In Mrs. Armstrong's case the post-mortem examination shows that a large dose, possibly fatal, was taken within twenty-four hours of her death, and other poisonous doses had been taken certainly for some days before. Therefore, this case does not come within the supposititious cases put by Sir Henry Curtis Bennett. In those cases the post-mortem conditions would have been different from those found in this case—quite different, I have no doubt about it, the arsenic would have disappeared. The symtoms of the post-mortem examination point to a number of poisonous doses of arsenic given between the 16th and the 22nd February, 1921." Then he went into the case of Mr. Martin. He was cross-examined again. What was suggested was, that what he found in one part might have been in another and migrated. He says as to migration of arsenic after death (a passage from Witthaus was read), "I do not agree with those passages. If a body putrifies so as to become liquid, then there may be migration." He said this body was particularly well preserved, because it had such a lot of arsenic in it. Then re-examined again he said, "No migration of arsenic from the body could take place to any appreciable extent after death. The arsenic I found in the liver could not possibly have migrated from somewhere else."

Then came Mr. Webster. He is an analyst. He dealt first with Mr. Martin's urine, which I am not going to deal with. He said he had examined many articles sent to him. Exhibit No. 32 is a packet found on the defendant, and contains 3 to $3\frac{1}{4}$ grains of white arsenic. No. 53 packet contains nearly 2 ounces. That was the packet in the bureau.

Then they call Sir William Willcox, and he said he had had sixteen years' experience, and so on. He goes into the question of early rheumatism. I need not trouble about that. I will begin with January, 1921. Sir William Willcox, it is almost

unnecessary to say—and it is said by the doctors for the defence—is a man who has made a study of this matter, and is as well qualified as anybody in the United Kingdom to give an authoritative opinion. He has written about it and studied it, and no one pretends he is not a man to be thoroughly trusted. He says, "On the 23rd January, judging from the evidence on the return of Mrs. Armstrong from the asylum, I have no doubt the neuritis was then peripheral. It is very difficult to diagnose arsenical poisoning during life. On 21st February there was the high-steppage. That is a most important symptom in peripheral neuritis. Mrs. Armstrong complained that she had springs under her feet, and it is common. On the 15th February there was vomiting. Those symptoms were undoubtedly due to poisoning, and having regard to the peripheral neuritis undoubtedly due to arsenical poisoning." Then he explained all that, and said, "The arsenic was shown to be taken a few days before 11th February to produce those symptoms. As to the 16th February, the symptoms of that are those of arsenic taken a few hours before. I consider the vomiting and diarrhœa indicate further the taking of a large dose of arsenic within a few hours of the onset of the symptoms of the 16th." He comes to the post-mortem examination now. "From the distribution of arsenic in the alimentary canal I have no doubt that 2 grains or more of arsenic—possibly a fatal dose—was taken within twenty-four hours of death. I have no doubt about it at all." If he is right—if 2 grains or more of arsenic were taken twenty-four hours before death, then the theory that Mrs. Armstrong took it herself is impossible. "I agree that arsenic taken through the mouth would take ten hours to twelve hours for liquid to get to the cæcum. I have no doubt as to a large dose having been taken within twenty-four hours of death. The arsenic in the liver indicates that a good deal of arsenic had been appropriated during life, and that the kidneys must have been damaged by the poison. On the symptoms of 20th and 21st August it would be very unsafe to form any conclusion against the defendant, as the deceased was given arsenic medicinally." Then he explained how it got into the hair and nails and then grows out. "During the last few days of Mrs. Armstrong's life, seeing that she had peripheral neuritis on the 11th February, her legs must have been getting weaker and practically paralysed. The certificate of Dr. Hincks shows death to be due to natural causes. That is all one could give. In this case the murmur and condition of the heart undoubtedly were due to arsenical poisoning. As to large doses being taken—or several doses taken—some in August and some in February—there must have been several taken from 16th February to 22nd February. I think this puts the theory of suicide out of Court." That is the deliberate opinion of Sir William Willcox. "I have no doubt she had a large dose of arsenic within twenty-four hours of her

death. I say the deceased could not herself have taken such a dose within the last four or five days."

Then he goes into Mr. Martin's evidence, and it was in answer to the foreman of the jury, I think, that he said arsenic mixed with food was quite tasteless.

Then he is cross-examined, and he says, "One-twelfth of a grain a day may be taken if you work up to it, and a dose of 15 grains might be taken without causing death if vomiting at once ensued. There is more danger in repeated small doses than in one large dose." He then goes on to auto-intoxication. Auto-intoxication might set up rheumatism, but rheumatism could not set up auto-intoxication. Mrs. Armstrong had chronic rheumatism, which may have been caused by auto-intoxication. "I do not think the rheumatism from which Mrs. Armstrong suffered was due to arsenic in August. Up to August there is no evidence that I have heard of arsenical poisoning. If arsenic were given in large doses you generally get vomiting, but not always. There is no evidence of vomiting before the 22nd August, 1920. The worst case of peripheral neuritis I know of came on in one to three weeks. It is rather uncertain after one dose, and more often follows several doses. On the 22nd January, 1921, and afterwards she might have taken a large dose some days before the 11th February. Arsenic might have been taken before the 22nd August, 1920, in doses insufficient to cause vomiting. I suggest some arsenic had been taken before the 11th February, 1921—probably in small doses. I base that on Dr. Hincks's evidence as to her state on that day. On the 16th February, 1921, there was very severe vomiting. I agree that a person may take a large dose of arsenic and have sickness, and gradually sink and die. A person might, I agree, on the 16th February take arsenic, or on the 17th, and die on the 22nd. I should expect to find none in the alimentary canal. I should expect to find most of it had been absorbed in the liver and the stomach; the liver would be practically empty. I say there must have been a dose within twenty-four hours before death, because of the finding of arsenic in the small intestine and ascending colon, and the vomiting and diarrhœa within the last twenty-four hours." And he referred to the evidence of Nurse Allen.

Nurse Lloyd says, during the last thirty-six hours she was with the deceased for ten hours between ten o'clock at night and eight in the morning of Sunday, 20th February. During that time there was one motion and two vomitings, but nothing after 2 a.m. on 21st February until 8 a.m. "My opinion is based on the evidence of Nurse Allen that there was vomiting and diarrhœa during the last twenty-four hours, though she draws no distinction between the last two days." Sir William Willcox says she had arsenic in the colon, and such arsenic might be encysted. "The suggestion that she took it herself is extremely unlikely, but I cannot deny the possibility." Then he is re-examined. I need

not go into that except the theory of her having a large dose on the 16th February—" Having regard to the symptoms and the evidence of Dr. Hincks, I say death cannot have taken place as suggested. The symptoms of diarrhœa and vomiting were increasingly severe until the end. If they had continued very large doses five or six days before, I should have expected the patient to be in a state of exhaustion in the last few days without diarrhœa and vomiting such as occurred here. With regard to the evidence of Nurses Lloyd and Allen, that there was no motion and vomiting as described by Nurse Lloyd was not remarkable. The recurrence of the symptoms after that time was probably due to further doses of arsenic after Nurse Lloyd left. That would be within twenty-four hours of death. I attach importance to the quantity of arsenic found in the intestines. I saw not the slightest evidence of heart disease due to rheumatism." Then he said the hypothesis put by Sir Henry Curtis Bennett was, having regard to all the evidence in this case, quite impossible to account for Mrs. Armstrong's death in the way put forward by the defence.

Now I come to the evidence of Dr. Toogood. He told us his qualifications, and he said he had made 7000 post-mortem examinations, and had had much experience of various cases of arsenical poisoning. As to the period from the 15th to the 20th he said, " In my opinion Mrs. Armstrong was suffering from auto-intoxication accompanied by chronic indigestion and accompanied by gall-stones; and there was evidence of a dilated heart with a murmur. These are frequent accompaniments of auto-intoxication. In October she was suffering from physical disturbances which would be likely to point to albumen. Before removal to the asylum there were symptoms consistent with arsenical poisoning and other causes also. It is an ordinary practice to give a bowl to the parties taking patients to an asylum, in case of sickness. Her depression was a very grave matter. The loss of power in her arms and legs in the asylum was I believe functional weakness. Arsenic in October would increase any definite neuritis symptoms. The deceased in the asylum had not peripheral neuritis. The evidence of Nurse Kinsey shows that the deceased was still suffering from functional weakness at the asylum. On the 11th February, from the report of Dr. Hincks, the deceased was then suffering from high-steppage neuritis. Up to the 16th February, 1921, there is no evidence of anything like arsenical poisoning only. Having heard the whole of the evidence, I say death was caused by arsenic taken on the 16th February, and none before. I say it was a large dose. In my view the arsenic became impacted. It is impossible to tell the state at the time of death in which she was on the 16th February from the post-mortem examination and the symptoms during life."

Then he is cross-examined, and he says he would place Sir William Willcox as the highest authority, and with him Dr. Spilsbury and Mr. Webster, the analyst. " As to neuritis, when

the deceased was in the asylum, it may have been that arsenic was administered to the deceased as medicine. That would take some time to pass away. The appearance of albumen on the 18th August, and its passing away on the 28th, is consistent with arsenical poisoning before the 18th August. The high-stepping and the absence of knee jerk are due to functional disease." He deals with Mr. Martin's case and gallstones and auto-intoxication. He says, "In my opinion the arsenic of which Mrs. Armstrong died was given in one big dose."

Dr. Ainslie is called, and he said he was present at the post-mortem examination. The joints were not opened. There is then the question of neuritis. He says, "Mrs. Armstrong, when at the asylum, was suffering from auto-intoxication, which produced the whole of the symptoms at that time. Having heard all the evidence, I am perfectly satisfied that the deceased died of arsenical poisoning about the 16th February, 1921. I cannot give it more precisely because of the hazy evidence of the nurse and Dr. Hincks. In my opinion that is the first dose of arsenic she ever had except that given in the asylum, and the last one." This is a very confident opinion, by one who never saw the deceased during her life, as against Dr. Hincks, who had seen her during life.

Sir H. Curtis Bennett—I only wish to say, my lord, there was a disagreement between Nurse Allen and Dr. Hincks. Dr. Hincks said it was the 16th and Nurse Allen said it was the 17th.

Mr. Justice Darling—At the post-mortem examination it was said that, had there been any marked signs of rheumatoid arthritis, undoubtedly the joints would have been opened. "I have had no cases in my experience that I had known to be of arsenical poisoning. I know Dr. Hincks very well; he is well worthy of confidence. I am satisfied that the deceased died of a dose of arsenic taken on the 16th February or early on the 17th." The evidence of Dr. Hincks as to her symptoms described by him is that they were due to arsenical poisoning. "She must have had a dose half an hour before seeing Dr. Hincks. I did not find any encysted arsenic. I have known of cases of encysting." The cases were mentioned in Blythe's book on poisons. Witthaus was referred to in Martin's case. Then Dr. Ainslie is re-examined, and he referred to Blythe on Poisons at page 566, and he said he meant the case of the Duc de Praslin, who died on the sixth day after taking poison. That was in 1846. What the exact conditions of the Duc de Praslin were we do not know, except that he took arsenic and died six days later; but Sir William Willcox and Dr. Spilsbury both say you may live more than six days after taking a dose of arsenic; so that we come to this, that Mrs. Armstrong might have died on the 22nd February after a dose taken on the 16th. That is all. Dr. Speed was called, and said he had read the report of the trial, and if she was suffering from arsenical poisoning, if she was taken to the asylum, it would

increase the symptoms. As to Mr. Martin, he agreed with Drs. Toogood and Ainslie. He said he did not hear Sir William Willcox examined. "During life the diagnosis of arsenical poisoning is difficult. During the symptoms on the 16th February tenderness across the course of the nerves is a *sine qua non* where neuritis is due to arsenical poisoning."

Now you see there is the evidence of those doctors who were called for the defence, who, however the arsenic was taken, are confident that it was taken on the 16th or early on the 17th February; that it was one large dose, and that she never had any other; that that was the first and last dose that she had. There is Dr. Hincks, who describes the symptoms, and the nurse, who describes the vomiting and diarrhœa on the 16th. What do you think? There is the evidence of Dr. Spilsbury, who actually made the post-mortem examination; and he tells you what he found, and he says he is certain from what he saw himself that arsenic was taken within twenty-four hours of death. He is not merely theorising; that is from what he saw. There is Sir William Willcox, who is admitted to be as great an authority as any on the subject, and he says he is satisfied there must have been this dose within twenty-four hours of death; and he used the remarkable expression that what was found (and he described it in his opinion as an expert on arsenical poisoning) put the theory of suicide out of court. Those were his words. Now, as I have said to you, if the theory of suicide is absolutely upset, that does not of itself prove the defendant to be guilty; but if you consider that theory is demolished, it being certain that she died of arsenical poisoning, who gave it to her? I have said there is no evidence of anybody that she ever did take any arsenic herself, knowing what it was. A great deal of evidence has been given to show she could not have got at it if she had wished; and if you come to the conclusion that she did not take it—that this woman did not destroy herself—then you must look and see who did give her this stuff of which she undoubtedly died. It is suggested that the defendant did so. Is there any evidence as to any one in this case having any arsenic anywhere except the defendant? None. He had had arsenic for weed-killing, and he had mixed weed-killer for many years for use. On the 11th January he bought of Mr. Davies white arsenic, and it has been produced, and I will read you what he says about it. This is his own evidence. "On the 11th January I bought a quarter of a pound of arsenic of Mr. Davies. Hird served me. I did not use the arsenic. It was wrapped in white paper and labelled. On reaching home I, having some of the 1919 purchase unused, I forgot, and put my new purchase on the top of the caustic soda tin in the cupboard. My wife died and I went abroad, and on the 28th April I returned. In May I went up to the cupboard after the 13th May. There I saw the packet of white arsenic. There was no string round it. It appeared as

if it had been opened. I did not weigh it. I opened it for the first time and realised it was white. Any one going to the cupboard could see it readily. My wife knew I was in the habit of using arsenic for the garden. She saw me mix it in 1919. I put the coloured arsenic at the bottom of the cupboard. In May I put the packet containing the white arsenic in a small drawer at the bottom of the centre cupboard of the bureau. On 21st June I intended to burn the arsenic, which was then wrapped in the two original papers in Davies's shop. I divided the packet roughly into two parts, and then divided one in the outside piece of paper, leaving the other inside. I wrapped the packet in a piece of blue draft and put it back in the same little drawer I had taken it from. I never took it out again. I saw the packet produced. I saw the little drawer. All I remember when I saw it is, I pulled the drawer open between the two pillars. The pillars were evidently not firm, and if any one asked me if it could be pulled right out, it was very difficult to get it out unless you held the pillars in place." It seems the drawer did catch and did not run smoothly. He says, "I put it there, and never took it out again." And then, during the adjournment, the defendant placed the packet in the drawer of the bureau as he put it in in May, and the jury and counsel and myself then inspected the packet. Is that the same drawer where the old luggage labels and foreign postage stamps were? As to the other half, we know now it was put in the cupboard, and remained there till taken out by Mr. Matthews. "As to the other half-packet, I made it up into small packets, about twenty of them about the size of exhibit No. 32. The arsenic was to be mixed with caustic soda. As to the small packet, I had the catalogue produced containing advertisements of 'killweed.' It gave me the idea that if I put poison to the roots of the dandelions it would have a good effect; and I put the little packet of arsenic I made up to the roots of the dandelions, and it had a good effect. I put the small packet of arsenic, and it killed them and spared the surrounding grass. I believe I used up all the packet, and I used that coat (produced). I used it when in the garden, and was wearing it when arrested in my office in Hay. That was on Saturday. Letters were in that jacket pocket. The night before I turned them out of the pocket of the jacket I was wearing and put them into the jacket in which I was arrested, together with the letters I received that morning. The police were with me till four in the afternoon. I made a statement early, and what I said about the arsenic was obviously incorrect. I mixed up the 1919 purchase of arsenic with the 1921—the white purchase. When I said that was the only arsenic I had I had quite forgotten the arsenic in the bureau."

Now let us see what he really says. He made this statement. He signed it, and he put at the bottom "I make this statement

quite voluntarily and without being questioned." As magistrates' clerk he would necessarily know all about making a statement to the police, and this is what he says he stated. "In January, 1921, I made a further purchase of a quarter of a pound of arsenic at Mr. Davies's shop. A small amount of this was used as a weed-killer after being boiled with caustic soda by myself. It was not a success, which explains why I have some left at my house. When I purchased this arsenic it was mixed with charcoal. I am keeping this to make a further trial later on. When I spoke of it being the only arsenic I had, I had quite forgotten the arsenic in the bureau that relates to this." After the statement he said this, "The cupboard where I kept the arsenic at my house (not in the bureau) contains boot-cleaning materials, and is unlocked. Nobody in the house, as far as I know, is aware of the presence of arsenic in the house. This arsenic I speak of is the only poison in my possession anywhere, excepting, of course, any contained in medicine. I have a medicine chest in my bedroom."

A day or two ago there was produced about 2 ounces of arsenic which was in the bureau. He had given no account whatever of white arsenic to the police—not a bit. We must think presently why that arsenic never was mentioned. I will go on. He said, "The next day—the 1st January this year—I saw my solicitor, Mr. Matthews, and made a communication to him. In my office the police took my coat and put the letters from my pocket in a brown paper parcel. I was not then aware that there was arsenic in my pocket. Manuscripts and letters I took from my pocket, and there were two purely business letters and telegrams. I wished to look at the business letters then in my pocket, and I did so. For the first time since June, when I turned over the letters I saw that small packet (exhibit No. 32). It lay apart in the flap of the envelope. There was a recipe for making weed-killer." That is exhibit No. 64. "I told Mr. Crutchett where to find exhibit No. 64 immediately after making the statement."

Now he dealt, of course, with the whole case—his wife's will and so on, and that I am not going into; but with regard to the history of arsenic he says, "In June, 1921, Miss Pearce was with me in my study at Mayfield. I then had a 4-ounce packet of white arsenic. I think there was a string round it." The jury saw it in the drawer of the bureau yesterday. "I had taken it from the cupboard in the study about the middle of May, 1921; and then I put it into the bureau and divided it into two portions, and of one I made about twenty little packets in the study at Mayfield. I divided it with my penknife, and used all of that except the one found on me." I do not know if you believe that. He took it out and on the same evening he used them all. If you want to poison dandelions, do you want twenty little packets? He says he thought he had poisoned the

whole twenty dandelions. As a matter of fact, he had. He used the whole of it and made separate holes to poison those dandelions, and says it was more convenient to do that. This was done in June—the last of that 2-ounce packet—and he mixed it with boiling water and caustic soda. So one packet of 2 ounces had been consumed, and the other packet of 2 ounces remained in the bureau. You have seen the little packet (exhibit No. 32), and you saw the little packet in the bureau in the waiting-room. "I had made my statement one hour before that. It is as accurate as possible, and was given to the police for their assistance." And the statement was read to the defendant—the one I read to you just now. "What I said—that I had used the arsenic I thought in 1921—is wrong. I had mixed it up with* the other. I made the statement voluntarily. Then I was arrested, and later on I saw the little packet and remembered what I had stated—that it was wrong, and I decided to say nothing further till I had seen my solicitor. Before the police left my office I remembered I should have told them where to find the arsenic at Mayfield. I realised it would require explanation. That packet in the bureau was never referred to. I knew before leaving my office after arrest that the statement I had made about the arsenic was inaccurate, and decided to leave the matter where it was." Then he was re-examined and said, "On the 31st December, 1921, I had no idea the police were coming. I volunteered to make a statement. I believed it to be true when I made it. The arrest was a great shock." Then he speaks about his business letters and says, "Some were in a brown paper bundle, and I understood I had leave to look it through. Amongst them I saw the little packet (exhibit No. 32). The police did not tell me they were going to Mayfield to search until just before I was taken to the cells. Then I remembered the 2 ounces of white arsenic. Before the magistrate I heard Mr. Matthews press counsel for the prosecution for a list of things found by the police at Mayfield. It was a long time before we got it; the account I gave the police as to 1921 was as to what happened as to the 1919 arsenic. I put the white arsenic in the study in January, 1921, and never touched it again until May, 1921. The quarter of a pound cost me 7½d."

The question is, what light do you think this throws upon this case? You have now the two sides before you. On the one side the prosecution say Mrs. Armstrong died of arsenical poisoning; the defence say, "True, she died on the 22nd February." The prosecution say that was the result of several doses taken after she returned from the asylum in January, and they say the course of the illness shows it—diarrhœa, vomiting on the days when it is spoken to by the nurse and by Dr. Hincks. The defence

* 'Confused it with.'

say she never had a single dose of arsenic until the 16th February, and she never had another, and she died of that; and she took it herself intending to kill herself. If you believe that she did take it herself, intending to kill herself or not, why, obviously, he did not give it to her, and he is not guilty. But the prosecution say that won't hold water, it will not do; there is the evidence of Dr. Hincks and the nurse. It doesn't agree with the taking of only one dose. The defence argue that it does; the prosecution argue that it does not. The defence say it could all have been taken in the one dose on the 16th. It is for you to consider whether she could possibly have gone to get it, even if she had known where it was, and supposing then, according to this evidence of Mr. Matthews, the white arsenic to have been in the cupboard in the study. Well, now, you make up your minds, if you can, whether she did take it herself or whether she did not. If she did, the prisoner is absolutely innocent.

But now, suppose you come to the conclusion that she did not take it herself, where are you left? Who, according to any evidence here, had arsenic? No one but the prisoner. Did anybody know that there was any in the house but himself? He says no. At the time he made that statement he said nobody knew there was any in the house. He said it himself. When he made that statement there was some in the bureau. Why did not he mention it? There were 2 ounces of it in the bureau—you have seen it—white arsenic. When he made that statement to the police he never mentioned white arsenic; he made a statement which he himself says mixed up the 1919 arsenic, the grey, with the white. Why did not he mention the white? At the time he made that statement the little parcel in his pocket had not been found. At the time he made that statement he had no reason to suppose that the police would know anything about the white arsenic; but before he went out of that office he realised that he had got the white arsenic in his pocket; and he says not till that moment did he ever remember that he had bought white arsenic of Davies and had put it in the cupboard, and then in the bureau. He had forgotten that. After what I have read to you, do you believe that? If you do not, if you think that in the witness-box he has told you a deliberate falsehood about that, what do you think of his evidence, any of it?

You have heard it all. You have heard his denial that he gave any to his wife. Do you believe he could have forgotten that white arsenic? He had omitted it altogether from his statement. Would not it have been a very bad thing for him to have put in his statement? By this time the police were inquiring into the case of Martin. Wouldn't it have been a very bad thing if he had to state to the police, "Not only is there that grey stuff in the cupboard, but in the bureau in my study in a

little drawer" (you know the drawer that pulls out with such difficulty), "in that bureau if you look you will find 2 ounces of white arsenic." Well, he says he forgot it. But what had he done with that white arsenic? Had he done anything with any of the arsenic calculated to impress the position of it on his mind as to the use he had made of the white arsenic? He had had 4 ounces of it, had divided it into two packets, had used up one packet of it in a most interesting experiment with a glass, and for some reason or another it had not been exactly what he desired, and he poured it all down the lavatory. Do you think he forgot that when he was saying to the police, "I will explain everything to you, I will make a voluntary statement"? Do you think he forgot that? Then there is the rest. There are still 2 ounces left, and he remembered afterwards so precisely the month and everything, the bit of string and everything about it; how he took it from the cupboard and put it in the bureau and left it; how he made up some arsenic.

He was able to tell you in detail what he had done with all the white arsenic; he had taken another portion of it and had made up twenty little packets just like exhibit No. 32 (exhibit No. 32 brought it all back to his mind, according to him), and had then gone out all at once on the same evening and had taken an old file and had pierced a hole at the root of twenty dandelions, as he thought, and had given them those doses; and he had clean forgotten it—according to him. That is his statement. Do you believe that he had forgotten the white arsenic that he bought at Davies's? Do you believe that he had forgotten what he did with some of it? Do you believe that he had forgotten what he did with the rest of it? Do you believe that he had forgotten that he had made up the twenty little packets, and do you believe that it never came into his mind until he saw the little packet which had been tumbled out of his pocket among the envelopes? That is his case; until he saw the little packet, that he had clean forgotten all about that white arsenic. The case of the prosecution is that he made that statement, which is only half the truth, with the intent to deceive the police. At that time he did not know whether the police would find white arsenic or whether they would not. He realised, the moment he saw the little packet, that it was a very awkward thing. So, knowing that his statement was false, because it was not all the truth and omitted a most important matter—knowing that his statement was false, what did he do? He made up his mind that he would not tell the police any more about it. That is what he said. He was asked, "Does it occur to you that if you had confessed to the police that you had white arsenic in your possession it would have been a very bad point against you, it was one which would have to be explained; you see that?—*A.* Yes, I quite see the point. *Q.* Now when you saw the little packet and realised that you had got white arsenic

in your pocket, did you realise that that was just a fatal dose of arsenic, not for a dandelion, but for a human being as well?—*A*. I did not realise it at all. *Q*. But if every one of the little packets you made up was the same as the one found in your pocket, every one of them contained a fatal dose of arsenic for a human being; you realise that from the evidence?—*A*. Yes, I do now, but I did not at the time. *Q*. The suggestion has been made, you know, that the moment you knew it was among the letters which were taken from you, you tried to get it back?—*A*. I could not get it. *Q*. Superintendent Crutchett said to you, 'Leave those things alone'?—*A*. Yes. *Q*. Why did you, if you were simply dosing dandelions, make up an ounce of arsenic into twenty little packets, such as the one found on you?—*A*. Because of the convenience of putting it in the ground. *Q*. Did you dose them all at the same time?—*A*. Yes. *Q*. Why go to the trouble of making up twenty little packets, one for each dandelion, instead of taking out the ounce of arsenic you had got, making holes, and giving each dandelion something out of the ounce?—*A*. It seemed the most convenient way. I cannot give any other explanation. *Q*. Before the police had left your office I suppose you had realised that you had got 2 ounces of arsenic in your bureau?—*A*. Yes. *Q*. And if they believed your statement, the police would know nothing of it?—*A*. No. *Q*. When did you know that the police were going to search Mayfield?—*A*. They told me they were going up then. *Q*. Did you think they would find the arsenic?—*A*. Yes, I did. *Q*. Did it not occur to you, seeing that you thought they would find it, that it would be better to make a clean breast of the thing and tell them, 'I forgot when I made this statement, I remember since, as you are going there, you will find in the bureau 2 ounces of white arsenic'? Did it not occur to you, if you thought they were going to find it, it would be the best thing to do?—*A*. I thought I had better keep my mouth shut until I had seen my solicitor." Then he says this about what happened afterwards. "*Q*. So far as you know, was it purposely concealed from the police until last Thursday?—*A*. Yes, so far as I am aware."

Now we know what was the cause. We know that, having made that statement, which did not contain the whole of the truth, being well aware that it did not contain the whole of the truth, being well aware that there was in the bureau 2 ounces of white arsenic, the same sort of stuff as was in that little packet, he made up his mind that he had better keep his mouth shut. What did he do? We know now that he sent for Mr. Matthews, the solicitor, and told Mr. Matthews that there was a little packet in the drawer of the bureau, and Mr. Matthews, defending him, did what was perfectly right; he went to Mayfield and put his hand in the drawer, and he did not find it. We cannot doubt that he told the defendant so. The police had not found it; they never produced it; we know they never found it. The defence badly

wanted to know whether the police had found it. It would have been a splendid thing if they had never found it. It put Mr. Matthews in a very great difficulty; and so Mr. Matthews consulted Mr. Bosanquet on the 1st January, because this had put Mr. Matthews in a very great difficulty as a professional man of honour. He had been told, the defendant must have informed him, that this statement (of the prisoner) was untrue; the moment the statement was seen it would be known it was not true. Mr. Matthews wanted to know what was his position; because if a person has committed a felony, and you know that he has committed a felony, and you afterwards do certain things to help him to escape from justice, you are an accessory after the fact. To any lawyer it would very soon occur—" Well, how far am I justified in going in this matter; what am I to do?" There are certain things you may do, and there are certain things you may not. Mr. Matthews, more by accident than anything else, afterwards did find that there was arsenic in the drawer, and he put it back. He did perfectly right. He got Dr. Ainsley to come and to see that he found it in the drawer where the defendant told him it would be. Then he got it; then he knew that the defendant was possessed of white arsenic, of which he had never told the police; and the question was, what was to be done? Mr. Matthews, and any lawyer, would know that he might not destroy evidence; he must keep it. He is perfectly justified, if he can, in concealing it from the prosecution; and they did conceal it from the prosecution until last Thursday. That is a matter of tactics, whether they should conceal it or produce it. It was a matter of tactics whether they should conceal it always or produce it here at the Assizes. You have heard the comments of Sir Henry Curtis Bennett, who says what a good thing it was to produce it. You have heard the comments of the Attorney-General as to what sort of bearing it has upon the whole of this case, upon the conduct of the man who is charged, who said he had forgotten the existence of the 2 ounces of arsenic and the dealing with the dandelions, and all the rest of it, until the little packet was discovered; and the Attorney-General asks you to say whether you believe him, whether you think the man could have forgotten something so important as that. And then, when he remembered it, what was his conduct? He thought the best thing he could do, in his own language, was to " keep his mouth shut," and then take legal advice as to what should be done if he got possession of the thing. He did get possession of it; and when he got possession of it they came to the conclusion that the best thing was not to let the prosecution know anything about it when the case was before the magistrate, keep them in the dark as long as ever they could, and produce it here at the Assizes, when it was an embarrassment to the prosecution, with an explanation, which (as Sir Henry Curtis Bennett has said) did great credit to the defendant. It is for you to judge.

Charge to the Jury.

Mr Justice Darling

Practically there is the case. He is charged with murder by administering arsenic to his wife. She had an administration of arsenic; and if you are satisfied beyond doubt that he gave it to her intending to kill her, he is guilty. He had the opportunity to give it to her, you can see on the evidence. The question is whether he did give it. When I say he had the opportunity, there is evidence that he was alone with her again and again. You can think for yourself how little it means to put some arsenic which you have got into an invalid's food, how easy it is to do it, especially if you have it all ready in a little packet like exhibit No. 32, which you can carry without anybody suspecting it, and which you can drop if anybody is not there so easily.

If you come to the conclusion he did that, and that she died of that, then he is guilty. The question of motive the Attorney-General has dealt with, and so has Sir Henry Curtis Bennett. It is usual to look for a motive in any crime; but you will never find, in such a crime as this, a motive which you or I, I hope, would think an adequate motive. That does not prove that it is not a perfectly sufficient motive for another person, a person with a criminal mind.

You have heard the defence; and I have said to you, if you have any reasonable doubt, it is your duty to acquit the prisoner. The defence is twofold. It has not been satisfied with saying to the prosecution, "Prove your case and let the prisoner escape if there be a reasonable doubt." They have gone further and have said, "We will satisfy you"—and they have called doctors to satisfy you—"we will satisfy you how that woman died: she committed suicide." If they have satisfied you of that, of course, you will say "not guilty." But suppose they fail to satisfy you that she committed suicide, where are they? She died of arsenical poisoning undoubtedly. When was it given to her? Who gave it to her? If she did not die of suicide, but died of a dose of arsenical poisoning administered at some short time before her death, who had arsenic? Only the defendant, so far as the evidence goes. Who could have given it to her, if she did not take it herself with a view to commit suicide? Take the whole case into your consideration and say what you find.

(The jury retired at 5.8, and returned into Court at 5.56.)

The Deputy-Clerk of Assize—Gentlemen of the jury, have you all agreed upon your verdict?

The Foreman of the Jury—Yes.

The Deputy-Clerk of Assize—Do you find the prisoner at the bar, Herbert Rowse Armstrong, guilty or not guilty of the wilful murder of Katherine Mary Armstrong?

The Foreman of the Jury—Guilty.

The Deputy-Clerk of Assize—You say he is guilty, and that is the verdict of you all?

The Foreman of the Jury—Yes.

The Deputy-Clerk of Assize—Herbert Rowes Armstrong, you stand convicted of the wilful murder of Katherine Mary Armstrong. What have you to say why the Court should not now give you judgment of death according to law?

The Prisoner—Nothing. (Silence was then proclaimed.)

Sentence.

Mr. Justice Darling—Herbert Rowse Armstrong, the jury, after a long and careful investigation of the case, and after a defence characterised by every quality which could induce a jury to take a favourable view of your case, have come to the conclusion that you are guilty of the awful crime with which you are charged; and I feel bound to say that in that verdict of theirs I concur, and consider that it was the only one which men who had any regard to their oaths could have returned on the evidence which has been given. The suggestion that your wife committed suicide was, to my mind, absurd, and was supported by no evidence which could render it not only probable, but possible. I say no more on that. You have had a fair trial; you have been brilliantly defended; and a jury of your countrymen have carefully considered their verdict. It is my duty now merely to pronounce the sentence of the Court. It is that you be taken hence to the place from whence you came; that you be taken thence to a place of lawful execution; and that you be there hanged by the neck until you be dead; that your body be buried within the precincts of the prison in which you shall last be confined; and may the Lord have mercy on your soul.

(The prisoner was removed.)

Mr. Justice Darling—Gentlemen of the jury, you have had a most trying time and a most painful duty to perform, and you have discharged it courageously. I wish personally that whenever a jury is empanelled in Hereford you might serve upon it, because of the intelligence you have brought to bear on the matter which has been submitted to your investigation. But that would not be just; and you are entitled to be excused, in consequence of the labours you have had, which must have cost you a great deal, and I shall excuse you all for twelve years from further service on juries.

The Attorney-General—Your lordship is aware that it is possible there may be an appeal in this case. Your lordship indi-

cated it in the course of your summing-up. That may have an effect one way or the other, but it is proper for me to remind your lordship that there is now upon the file a true bill found upon another indictment against the prisoner. I should ask your lordship to allow that to be a *remanet* in case it becomes necessary to deal with it.

Mr. Justice Darling—That is the indictment charging him with attempting to murder Mr. Martin?

The Attorney-General—Yes.

Mr. Justice Darling—The proper course would be to adjourn that until the next Assizes. By that time——

The Attorney-General—The matter will have been dealt with. I may respectfully remind your lordship that there is that indictment. I assume your lordship would make it a *remanet* from this Assize till the Summer Assize.

Mr. Justice Darling—Yes.

APPENDICES.

APPENDIX A.

COURT OF CRIMINAL APPEAL.

(*Thursday*, 11*th May*, 1922.)

Grounds of Appeal.

(1) That Mr. Justice Darling wrongly permitted evidence to be given which tended to show that the prisoner had administered poison to one Oswald Norman Martin with intent to murder him.

(2) The learned judge misdirected the jury on the effect of such evidence and on the way in which it should be applied.

(3) The learned judge misdirected the jury about the grounds on which the said evidence was admissible (if admissible in fact).

(4) The learned judge misdirected the jury on the whole case. In particular he misdirected them on the following points :—

(a) By directing them that it was for the defence to prove to their satisfaction that the deceased committed suicide.

(b) By failing to bring to their notice points in the evidence which told in favour of the prisoner.

(c) By failing to put to the jury adequately the case made for the defence.

(d) By unduly emphasising a number of points put forward on behalf of the prosecution without calling the attention of the jury to the answers put forward by the defence.

(e) By suggesting to the jury theories as to what might have occurred with which the defence had had no opportunity of dealing.

(f) By suggesting to the jury that the prisoner had been guilty of concealing evidence from the prosecution at a time when he was in fact under arrest and was represented by a solicitor.

(g) By misdirecting the jury generally as to the weight and attention to be attached to the evidence given by the witnesses for the prosecution and defence respectively.

(5) The learned judge misconstrued certain of the evidence and in consequence misdirected the jury.

The following were put forward as instances of misdirection :—(a) The learned judge stated that if Nurse Allen was mistaken in saying that Mrs. Armstrong took to her bed on 13th February, 1921, it made a difference of one day only. There was, in fact, no evidence of any other witness that Mrs. Armstrong took to her bed before 16th February. (b) The learned judge stated that there was no evidence that anybody besides the prisoner knew that there was arsenic in the house. There was, in fact, evidence that Mrs. Armstrong knew of it.

Sir Henry Curtis Bennett, K.C., Mr. S. R. C. Bosanquet, and Mr. E. A. Godson appeared for the appellant; and the Attorney-General (Sir Ernest Pollock, K.C.), Mr. C. F. Vachell, K.C., and Mr. St. John G. Micklethwait for the Crown.

Sir Henry Curtis Bennett, in opening the case for Armstrong, said that that was an appeal against conviction at the Hereford Assizes on 13th April last. The appellant was a solicitor practising at Hay, in Herefordshire. He was fifty-three years of age, and in 1907 he married. In 1912 his wife and he went to live at Mayfield, Hay. The house had considerable grounds and 800 square yards of paths. In 1914 the appellant, who had been for some time a Territorial, was called up on the outbreak of war. He left his family and served in this country and also for a

time in France up to 23rd May, 1919. During the absence of the appellant on war service, after a short time Mayfield was let and Mrs. Armstrong with the children went to Teignmouth, where some of her family lived. While she was there Mrs. Armstrong suffered from almost chronic indigestion. She suffered from rheumatism, neuritis, and loss of power in her hands. She also suffered from loss of power in her feet. On 17th January, 1917, she made a will. In it she left her property ultimately to be divided among her children, and she left an annuity of £50, subsequently £100, to her husband, besides making a bequest to the housekeeper of the appellant. There was clear evidence on the notes that not unnaturally during all that time—1917-1918—while the appellant was serving, and especially when he was in France, his wife was very anxious. On 23rd May, 1919, the appellant was demobilised and returned to his home at Mayfield. There was evidence that early in that year Mrs. Armstrong was still suffering from indigestion and from neuritis and loss of power in her hands and feet. Returning in May, 1919, the appellant took up his practice as a solicitor.

During 1919 Mrs. Armstrong expressed to her sister in October a desire to make a new will, telling her that she was not satisfied, now that her husband was back, that she had left him enough. The first really important month, as the case for the prosecution was put, was August, 1920, because, according to the Attorney-General in opening the case to the jury there, on 1st August Mrs. Armstrong was "quite well." On 8th July, 1920—three weeks before the date taken by the Attorney-General—the second will was made. That will played an important part in the trial, because there was some suggestion that the making of that will was carried through by the appellant, and it was put forward by some sort of minor suggestion that it was a motive for the appellant to get rid of his wife. There was some suggestion that the will was not properly executed; yet in the same breath the prosecution was saying not only that Mrs. Armstrong was quite well up to August, 1920, but that she was a keen, clear-headed business woman, and there was this document produced, signed by her. No suggestion was made at the trial that the signature was anything else than Mrs. Armstrong's real signature; but the suggestion was made that the will was not properly executed, and the Attorney-General, in opening the case to the jury, suggested that so great was the hurry of Armstrong to see that it was executed that he did not wait until it could be properly executed. Yet the will was signed in the presence of Miss Pearce, the housekeeper.

The Lord Chief Justice—The will was in the appellant's handwriting.

Sir Henry Curtis Bennett—The body of it was. The evidence of Miss Pearce was that, as far as she could remember, Major and Mrs. Armstrong were in the drawing-room, and that she was called in, and she remembered that Mrs. Armstrong, putting her hand on the paper, said to her "Sign here." Miss Pearce further went on to say that she had a recollection of Mrs. Armstrong saying "There is Lily Candy; she can sign, too," and she was called into the room. Lily Candy was called, and said that she remembered only signing one document for Major Armstrong, and did not know that it was a will; that she signed it in the study, and that only Major Armstrong was present.

Counsel went on to say that that was made one of the suggestions of motive in the case; yet, although it was held out as one of the suggested motives, the prosecution were saying that when this keen, clear-headed woman made the will she was quite well.

On 4th August, 1920, there was a purchase of some weed-killer. There was a little dispute whether it consisted of three or four packets of weed-killer.

Mr. Justice Avory—When you say "weed-killer," what do you mean?

Sir Henry Curtis Bennett—It was powdered weed-killer, and was described as weed-killer.

Appendix A.

Mr. Justice Avory—What is it made of?

Sir Henry Curtis Bennett—One of the things in it is arsenic. When you go into a shop and ask for weed-killer, you are supplied with it.

Continuing, counsel said that on 15th August Mrs. Armstrong was undoubtedly ill. Dr. Hincks was sent for, and during the next two or three days she showed most decided signs of delusions. On 20th August Major Armstrong sent for two people—Mr. Chevalier, a solicitor, of Liverpool, who was the best friend of both Major and Mrs. Armstrong and of the family for many years, and the sister of Mrs. Armstrong, Miss Friend. They arrived on 20th and 21st August. A consultation took place on the evening of 21st August between Dr. Hincks and another doctor, with the result that it was determined, at the doctors' suggestion, acquiesced in by the others, that Mrs. Armstrong should at the earliest possible moment be removed to Barnwood Asylum, near Gloucester. On 22nd August she was taken to that asylum, and the case for the prosecution, as opened by the Attorney-General, was this, for he drew particular attention to these dates in these terms—

August 1, 1920.—Mrs. Armstrong quite well.

August 4, 1920.—Weed-killer purchased.

August 15, 1920.—She was taken ill.

August 22, 1920.—She was taken to Barnwood Asylum, and at that time was suffering from the effects of arsenical poisoning.

The case for the defence as to those dates and that month was—Mrs. Armstrong for four or five years was suffering from indigestion, neuritis, and loss of power. August 4.—Purchase of weed-killer—nothing to do with the appellant. It was clear that the weed-killer was purchased by the gardener, Jay, who swore that he used the whole of it except a small half-tin which was left in the garden shed, and that, so far as he knew, Armstrong never touched it.

The Lord Chief Justice—How much is half a tin?

Sir Henry Curtis Bennett—I think they were pound tins.

Mr. Justice Shearman—A tin, I understand, could kill fifty people, but the amount is immaterial here.

Sir Henry Curtis Bennett said that this small half-tin was found by Jay after the arrest, and he said that he used all except what remained in the garden shed. He (counsel) did not agree that Mrs. Armstrong was quite well on 1st August. On 4th August came the purchase by Jay, and then the illness. Directly Mrs. Armstrong became unwell Major Armstrong sent for the best friend, the sister, and the doctor, and the case for the defence was that Major Armstrong was doing all that he had ever done before—showing that he was a devoted husband, taking every sort of care of his wife. She was taken to Barnwood on 22nd August; and on that date, and not before, according to experts for the Crown, Mrs. Armstrong did show symptoms which were those of arsenical poisoning, although they were also symptomatic of other things. The case for the defence was that she was undoubtedly suffering from toxinism, the result of auto-intoxication; that gradually she was poisoning herself as the result of her illness. In Barnwood Asylum Mrs. Armstrong progressed slowly, but from 3rd October until 3rd November—for thirty-one days—she received in the asylum a special tonic, and in that tonic there was each day 1/7th of a grain of arsenic.

Mr. Justice Avory—Of what?

Sir Henry Curtis Bennett—Arsenic. He did not say that that had anything to do with her death. The point was that Dr. Spilsbury in cross-examination admitted to him that if in fact a person were suffering from arsenical poisoning on 22nd August, on entering the asylum 1/7th of a grain thus administered would, to put it at the lowest, retard the progress of the patient, and might make her worse. He admitted that it would retard her progress, and yet the evidence in the case showed that

during the time she was in the asylum she made steady progress, and that during the time she was taking the tonic, that tonic containing arsenic did her good and improved her health. That was a matter which, of course, was dealt with. In October, 1920, when she was given arsenic, the evidence of an expert called for the Crown was that if she had been suffering from arsenical poisoning in August, 1920, one would have expected the arsenic to have retarded her progress, whereas the evidence was the other way and she was getting better. The evidence was that at the time his wife was at the asylum Major Armstrong, who went to see her from time to time, was showing the greatest consideration towards her and displaying to the doctor there the desire to know whether she could come home.

Counsel read correspondence between Major Armstrong and Dr. Townsend. He said that on 22nd January, 1921, Mrs. Armstrong was fetched from the asylum and taken home. A point of that was made by the Crown in opening the case. It was said that the desire of the appellant to get his wife home was a desire that he could get her home to poison her. He submitted that the letters showed that the point of view taken by the appellant was consistent with the view which would be taken by a husband who was desirous, properly because of affection, to get his wife back home. Mrs. Armstrong returned on 22nd January.

On 25th January she was seen by Dr. Hincks, not because she was not well, but because there was something the matter with the children. On 6th February she was not so well as when she returned, and the allegation was that Armstrong, who was said to be giving her poison, sent for the doctor and said, "My wife is not so well. I want you to keep an eye on her." On 11th February Dr. Hincks examined her, and found her in a bad state of health. He had no sort of suspicion that there was anything wrong at all, and on Sunday, 13th February, after the mid-day meal, Mrs. Armstrong was sick. On 23rd January, the very day after she returned home from the asylum, it was thought right by Major Armstrong to employ Nurse Kinsey, and she remained there till the 27th. She held the view, however, that, that being a mental case, there ought to be a whole-time nurse, and, as a result, on 27th January Nurse Allen was engaged.

Between 23rd and 27th January there was a very important conversation, because Nurse Kinsey said that Mrs. Armstrong had told her that she had tried to throw herself out of a window at the asylum, or that she had gone to the window and found it locked; also that she had been up to the attic window at Mayfield, and, she asked, supposing anybody threw herself out of that window would it break her back. That evidence was supported by Miss Pearce, who spoke as to the incident at the asylum, and also as to being asked by Mrs. Armstrong whether it would break her back. At the end of January, within a very short time after her return from Barnwood Asylum, Mrs. Armstrong had suicide in her mind—some attempt or idea of committing suicide both at the asylum and after her return; otherwise, why those questions?

There was not one scrap of evidence that Major Armstrong ever gave his wife arsenic, or that he ever gave her any food or drink, not one scrap of evidence of how or when he administered arsenic.

The Lord Chief Justice—When you say that there is no evidence that he gave his wife arsenic, I suppose you mean that there is no evidence that he gave it in the presence of other persons?

Sir Henry Curtis Bennett—Yes, I mean that.

The Lord Chief Justice—There is evidence that he had the opportunity.

Sir Henry Curtis Bennett—Yes, everybody in the house had the opportunity. There is opportunity to administer it if there is weed-killer in the house, but in this case one is always left with the fact that the

prosecution were unable to say at any time, "Did Major Armstrong give his wife a drink or food in which there might have been arsenic?"

Mr. Justice Avory—Are you accurate in that? Look at the question put to Nurse Allen, "Who, on those occasions, would be left behind to feed her?" and the answer, "Major Armstrong."

Sir Henry Curtis Bennett said that the whole thing was assumption. Here was a nurse who was in charge who would say that she only went out at the most opportune moment to leave her patient. Any person might give her drink.

Mr. Justice Avory—I read it that when Nurse Allen went out she left Major Armstrong behind in the room.

Sir Henry Curtis Bennett—I agree that he was in the house and in his wife's room.

Mr. Justice Shearman—A husband must be frequently left like that.

Sir Henry Curtis Bennett—If a man is accused of murdering his wife, and there is poison in the house, if he does not go into the room people say that he is keeping away to divert suspicion, and if he does go in, then that act in itself is put against him.

The Lord Chief Justice—There is ample evidence of opportunity, and there is evidence of occasions when the husband was in the bedroom alone.

Sir Henry Curtis Bennett—I accept that. There was opportunity; but it was consistent with his innocence that he went to the room.

Miss Pearce also said that Mrs. Armstrong did not take to bed regularly until 16th February, on which day Mrs. Armstrong told her that she thought that she had taken a chill. That was the only evidence except the appellant's as to 16th February.

The Attorney-General—Dr. Hincks referred to it. Nurse Allen spoke of the patient's sitting in the verandah with a hot-water bottle at the end of the previous week.

Sir H. Curtis Bennett said that the fact remained that she was wrong, and that the defence had corroborated the fact that she was down on 16th February. In her statement to the police on 3rd February—long before she was treated as a hostile witness—Miss Pearce said that Mrs. Armstrong sat in the garden on 14th February. He admitted that there was some vomiting on 13th February, but not that it became continuous then. He drew a sharp distinction between anything Mrs. Armstrong was suffering from before 16th February and what happened after. Up to that date everything she suffered was consistent with her medical history.

The prosecution said that arsenic was being administered from 3rd February. Yet on the 6th the man who was suggested to be poisoning his wife called Dr. Hincks's attention to her condition.

Wherever Nurse Allen's evidence could be tested it was wrong. The second instance was that she said it was on 17th February that Dr. Hincks was sent for. That was wrong. Dr. Hincks said that it was on 16th February. It might not be a great matter, but when her evidence was made a basis on which expert medical evidence was founded, it became important. According to Nurse Allen, from 16th February this poor woman was suffering from very nearly continuous vomiting, and was becoming weaker and weaker. But it was again possible to test her evidence. Mrs. Armstrong died at 10 a.m. on 22nd February; during the last two days, said Nurse Allen—*i.e.*, from 10 a.m. on 20th February—Mrs. Armstrong suffered from almost continuous vomiting and diarrhœa. On the night of that Sunday, 20th February, Nurse Allen went off duty at 10 p.m., just thirty-six hours before Mrs. Armstrong died. Her place was taken for ten hours by Nurse Lloyd.

The remaining material dates could be stated briefly. On 22nd February Major Armstrong was told at 8 a.m. that his wife was *in extremis.*

He went in, kissed her, and waited till Dr. Hincks came. Dr. Hincks said that she might last through the day, but she died at 10 a.m. The funeral took place on 25th February. Armstrong was very upset, and went abroad, with the concurrence of Dr. Hincks. He returned to Hay in May and resumed his duties as justices' clerk till 31st December. During that period—except for possible single days—he was not away from Hay. On 31st December he was interviewed by Inspector Crutchett, and made a statement, and was arrested on another charge.

Counsel then gave a list of the purchases of arsenic by Armstrong. In 1912 and 1914 there were purchases of weed-killer which were not material. On 7th June, 1919, a fortnight after Armstrong's return from the Army, he bought ½ lb. of arsenic properly coloured, with other ingredients for weed-killer; it was bought from Mr. Davies, the local chemist at Hay. There was evidence of Armstrong and Jay, the gardener, that some of this was used. On 4th August, 1920, there was the purchase by Jay of three or four 1-lb. tins of weed-killer containing arsenic in large quantities. This was used except half a tin, which was found after Armstrong's arrest. On 11th January, 1921, Armstrong bought ¼ lb. of arsenic from Mr. Davies. The evidence given by the assistant was that this also was coloured. According to the appellant this was purchased for use on the paths and drive, where Jay said there were numerous weeds, and that January was a good time of year to deal with them. Armstrong, in other words, was identifying himself in the most direct way with the purchase of arsenic from the local chemist, who had known him for years.

The point had been made—why had he not used this arsenic? His explanation was that a few days later his wife returned and was ill, so he did not use it till he returned in May. His diary showed that on the only Saturday between 11th January and his wife's return Armstrong himself was ill in bed.

The Lord Chief Justice—On 14th January he was writing asking for his wife's return.

Sir Henry Curtis Bennett, continuing, said that Dr. Hincks's death certificate was — heart disease, one year; nephritis, six months; acute gastritis, twenty-one days. Two motives for this crime were alleged—first, the alleged will leaving all his wife's property to the appellant, but the difference in effect of the two was not very great.

The Lord Chief Justice—Did he not receive everything under the second?

Sir Henry Curtis Bennett admitted this, but he said that dealing with it as a question of motive, or part of the motive, it was notable that not one penny piece had been used by the appellant up to the time of his arrest.

The Lord Chief Justice—It would have been highly inartistic to dispose of it at once.

Sir Henry Curtis Bennett—But this was nearly a year.

The other alleged motive was even less formidable, namely, that there was some other lady—a lady of mature years and perfect respectability, all of whose family were known to the appellant; a lady who knew of Mrs. Armstrong, and of Armstrong's affection for her and for his children. Neither side did nor could make the slightest reflection on this lady or Armstrong's relations with her.

There was another motive never suggested at the trial until the learned judge suggested it himself in the summing-up—a motive with which he (counsel) had, of course, no opportunity of dealing, and which was never suggested by the prosecution.

He would summarise the facts down to the date of Mrs. Armstrong's death—a devoted husband—not disputed; living on terms of affection with his wife—not disputed; in August, 1920, when he is supposed to be poisoning his wife, sends for Mr. Chevalier and Miss Friend. She is five

months at Barnwood, making gradual improvement, though taking 1/7th of a grain of arsenic daily from 3rd October to 3rd November.

The LORD CHIEF JUSTICE—You have omitted the purchase of arsenic on 4th August and the symptoms of arsenical poisoning. That is, of course, very material on the question of suicide.

Sir H. CURTIS BENNETT said that he had always taken the view that he had to deal seriously with this matter, but when he cross-examined Dr. Hincks upon it, Mr. Justice Darling had told him that he was getting very far from the point.

Mr. JUSTICE SHEARMAN—But when you explained your object, he did not interrupt you again.

Sir H. CURTIS BENNETT—No, but in his summing up he told the jury that they need not concern themselves much with August, 1920. He (counsel) had always regarded it as important to show whether Mrs. Armstrong's condition in August, 1920, was due to arsenic or to toxæmia.

The most important ground of appeal was the admission of evidence on a charge which was the subject-matter of another indictment. In Hay there was another young man—young in comparison with Major Armstrong—a solicitor named Martin. Martin and Armstrong had many litigious matters going on between their two offices, and there was one estate sale in which Martin was pressing for completion which Armstrong was delaying. Their personal relations were good, but their professional relations had become strained. There was a suggestion that Martin had annoyed Mrs. Armstrong on one occasion by his costume, and had not been invited to Mayfield again in her lifetime.

On 26th October the business relations of Martin and Armstrong were strained—ultimately, there was a writ issued. On that day and on several previous days Martin received an invitation to Armstrong's to tea. Both offices were very busy, and every time Martin went home—which he always did by car—he had to pass Mayfield.

On that afternoon Jay and MacGeorge were working there. An arrangement had been made that Armstrong would come back early to see MacGeorge about a temporary building which he was having erected. About 4.15 Armstrong was seen by MacGeorge to come up the drive, pass through the front door, and come straight out to the back garden, where he remained in conversation with MacGeorge till Martin arrived, when they went into the house together, where tea was ready for them. The suggestion of the prosecution was that poison had been put upon a scone which Armstrong handed to Martin in his fingers with the remark, "Excuse fingers." That had been left to the jury in a much wider sense. There was no suggestion by Martin that in his presence anything suspicious was done, except the handing of the scone. Martin left, having had something to eat and to drink. Even opportunity was cut down to the minimum in this case. The food was brought straight from the kitchen to the drawing-room by a maid named Price. Armstrong was never in the kitchen that day, and there was no evidence whatever that he had any arsenic on his person on that date.

Martin went away. There was some evidence that he was feeling unwell. He ate his dinner, and three and a half hours after this tea was taken ill with symptoms consistent with arsenic, and also consistent with gastritis, for which his complaint was taken by Dr. Hincks. Not till the fourth day was a sample taken—under not very satisfactory conditions, in an ordinary chemist's bottle, and 1/33rd grain of arsenic found.

Armstrong and Martin continued meeting, and there were invitations from Armstrong to tea at his office down to 12th December. On 31st December, the next material date, there was actually a pending dinner party at Armstrong's, to which Martin and his wife were invited.

On 31st December Inspector Crutchett interviewed Armstrong. It was a Saturday; that was important, for according to the appellant he was

wearing a Norfolk jacket—which was not his usual office costume—a jacket which he wore when he worked in the garden and sometimes on a Saturday morning when he intended to spend the afternoon in the garden. He had not worn it since June till that day. When he was first spoken to by Inspector Crutchett he was asked to give an explanation in relation to Martin's illness. [Counsel read a long statement made by Armstrong to the inspector.] That statement was made in difficult circumstances, when he was being questioned about a very serious matter—his alleged attempt to poison a brother solicitor. He was arrested at his office. He asked permission to deal with his business letters, and, while search was being made, was seated at a table with a police officer opposite to watch him. He not only went through the business letters to the office, but, as he thought he was entitled to do, though the police had not intended it, also through letters in his pockets—this with a police officer just opposite. Caught in the fold of an envelope he saw a little white packet, which brought back to his mind the way he had used a considerable part of the arsenic bought on 11th January, 1921.

A great deal was made by the prosecution of the fact that when he found this little packet he did not then and there say to the police, "My statement was incorrect; I now recollect that I have some other arsenic." The appellant's answer was that, being under arrest, he thought it wiser not to say anything further until he had taken advice.

The counsel, dealing with the finding of the small packet of arsenic, said that comment had been made on the fact that arsenic had been found, and that nothing was said about it at the time. The appellant, however, was under arrest. He (Armstrong) did not, in fact, make any further statement to the police after that little packet had been found. Whether he was right or not in failing to do so, he (counsel) would not say, but later the appellant instructed Mr. Matthews and told him that in a drawer in the bureau in his study the solicitor would find about 2 ounces of arsenic, and that it had been put into some blue paper.

The Lord Chief Justice—That was the arsenic which, according to the evidence of the chemist's assistant, was covered, as it ought to be, with charcoal?—Yes.

Sir Henry Curtis Bennett said that he placed great reliance on the finding of that arsenic in the bureau, although, as their lordships would see, it was left to the jury as if the finding of the arsenic subsequently by Mr. Matthews was a matter which put him in great difficulty, and that it was only through his honesty and integrity that the fact became known. It was left to the jury that, instead of the finding of the arsenic being of great importance in Major Armstrong's favour, it was a strong point against him. The learned judge did not put the defence to the jury at all upon that point.

The Lord Chief Justice—I suppose that in your address to the jury you laid great stress on it?

Sir Henry Curtis Bennett replied that he did. He said that when the jury came to the summing up they only had from the learned judge the point of view of the prosecution with regard to it.

The Attorney-General said that he had to attach great importance to the fact that there had been another packet of arsenic which had not been referred to in the prisoner's statement. It was not only arsenic which was in the cupboard in 1920, but also the white arsenic purchased by the prisoner in 1921.

The Lord Chief Justice—It was at a comparatively late stage of the trial that the discovery of the packet was first mentioned.

Sir Henry Curtis Bennett said that it was the first opportunity he had had of cross-examining on the subject. He put it to the first witness for the prosecution to whom he could put it. Mr. Matthews knew when he went to Mayfield that the police had been

there and made a thorough search. The solicitor went to the bureau, but the long narrow drawer had not been pulled right out, and it appeared that there was nothing in it.

Mr. Justice Avory—How is all this material?

Sir Henry Curtis Bennett said that it was very material, because the case was clearly put to the jury making the insinuation that the appellant was anxious right through that this matter should not be disclosed.

The Lord Chief Justice—Your case is that this packet of white arsenic was concealed at the back of this drawer?

Sir Henry Curtis Bennett—Innocently; by accident.

The Lord Chief Justice—And it was in fact discovered in the circumstances to which Mr. Matthews deposed? The fact comes to this, that the arsenic was found in the drawer, and if the search made by the police had been a little more fortunate they would have discovered it. Would you then say that, if the police had discovered it, it would have been in the appellant's favour?

Sir Henry Curtis Bennett—The discovery was not so favourable to the appellant as if the police had found it. Directly it was discovered, it was in favour of the appellant that it should be found that he was in possession of white arsenic bought from Davies.

Mr. Justice Shearman—Assuming it had been discovered it would have shown at once that it was bought from Davies?

Sir Henry Curtis Bennett—Yes.

The Lord Chief Justice—There could be no doubt that the solicitor having found it caused a perplexed situation.

Mr. Justice Avory—It only shows that the manner in which it was discovered was most immaterial.

Sir Henry Curtis Bennett—Yes, the manner in which it was discovered; it was the fact of its discovery which was material.

Counsel said that that brought him to the last matter of fact to which he desired to draw attention. The first real ground of appeal there was the point which, in his submission, was of the greatest importance. The appellant was upon his trial on an indictment for the murder of his wife on 22nd February, 1921, and he (counsel) had ventured to point out to the Court during his survey of the facts of the case that the case for the prosecution against him was that for some time he had been poisoning his wife, that he was in possession of arsenic which might poison his wife, and there was the question of the will as being motive. There was no act proved by the appellant in regard to which he might set up the defence that the act was done either by mistake or by accident. The only thing the prosecution had to prove was, "You are in possession of poison, you had the opportunity of administering that poison to your wife, and we say that you had some motive for doing so." The death of the wife took place on 22nd February, and during the course of the trial upon that indictment, at a very early stage, before any defence was before the Court at all, submission was made by the Attorney-General to the learned judge that he should be allowed to open the facts of the indictment in the Martin case.

Before he (counsel) came to deal with the way in which the submission was made and the law upon the subject, it was of importance to remember that this case was being opened in considerable detail and this evidence was sought to be put to the jury, not at some subsequent time, but then and there in the very first opening statement of counsel, before any defence of any sort had been made.

Mr. Justice Shearman—Was it before the opening by the Attorney-General?

Sir Henry Curtis Bennett—No.

The Lord Chief Justice—Did not you say with reference to that argument that it was a part of the case for the defence that Mrs. Armstrong did in fact die of arsenical poisoning?

Sir Henry Curtis Bennett—Certainly.

The Lord Chief Justice—Then the case was open to three defences—accident, suicide, or poisoning by some other person?

Sir Henry Curtis Bennett agreed. He said that there had been an opening by the Attorney-General dealing with the murder charge, and then there was this submission to the learned judge. He proceeded to read the shorthand note of the Attorney-General's submission, and said he contended that such evidence as was given there in relation to the Martin charge would only have been admissible on three grounds.

The Lord Chief Justice—Intent, system, accident?

Sir Henry Curtis Bennett—Yes.

Mr. Justice Avory—Is there a system of poisoning everybody?

Sir Henry Curtis Bennett—I hope not, my lord.

Counsel said that what he understood was that if there was evidence connecting different separate crimes showing they were all done with one end in view, it might be that evidence of subsequent acts could be admissible.

Mr. Justice Shearman—In Stephen's "Evidence" it deals with a course of business.

Sir Henry Curtis Bennett—Yes.

The Lord Chief Justice—It might be a baby-farming case.

Mr. Justice Shearman—And in insurance cases where they burn down houses.

Sir Henry Curtis Bennett said that his submission was that at the time this was put before the jury it was put in a mass of prejudice at the very outset and at a time when there was nothing before the Court to justify its admission at all. At that time there was no defence which could possibly justify its being brought before the Court. They had first to prove some definite act in relation to the charge they were trying, and in this case no such act had been ever proved at all. Assuming there was any ground, and he did not admit it, in which such evidence could be put before the jury, the jury were misdirected over and over again by the learned judge in his summing up as to the use the jury might make of it. It had been left in a way that all the cases had decided it should not be left.

The Lord Chief Justice—The charge of attempting to poison Martin came first, and there were three dates—the moment of arrest with white powder in his pocket, 26th October, and February, 1921.

Sir Henry Curtis Bennett cited *Reg.* v. *Gearing*, 18 L.J. 215.

The Lord Chief Justice said that there the husband died in 1848, and evidence was given of sons who died in the following year.

In reply to his lordship, counsel said that he took no point that the alleged offence against Martin took place subsequently.

Mr. Justice Shearman referred to the case of Neill Cream, where the man was in the habit of administering strychnine to women of a certain class.

Sir Henry Curtis Bennett said that the present case was quite different from the other cases. Here accident was not the defence. In *Gearing's* case, within six months four members of the same family suffered, three died from the same poison, and the prisoner was the person who served them with their victuals.

The test is, at the time the evidence was put before the jury, was it relevant to the case made?

He referred to *Reg.* v. *Winslow*, 8 Cox, 397, to show that, as compared with *Reg.* v. *Gearing*, upon almost identical facts, two entirely different views were taken.

The Lord Chief Justice—*Reg.* v. *Winslow* has been held to be wrong.

Sir H. Curtis Bennett—The view that it is wrong has been expressed several times, but I am not citing any of these cases to show the law as

it now is. It seemed fairer to go back and deal chronologically with the relevant cases against, as well as for, me. *Reg.* v. *Gurner*, [1864] 4 F. and F., was a case of system.

Mr. JUSTICE AVORY—How is it more a system to exterminate a family than to exterminate every one who is objectionable to you?

Sir H. CURTIS BENNETT—There may be a common aim, as, if all the family stand in the way of an inheritance.

Prima facie, continued counsel, juries were not entitled to have evidence of prior or subsequent charges, unless the prosecution showed that they came within definite exceptions. It was not enough to say, "We prove you had opportunity—which every one else in the house had—and, to prove that you took advantage of that opportunity, we give evidence that on another occasion you did such-and-such an act." You must prove an act and a similar act on another occasion.

Mr. JUSTICE SHEARMAN—If the Attorney-General is right, they could have prosecuted to conviction for the attempted murder, and then proved all those facts against him again on the murder charge.

Mr. JUSTICE AVORY—Why not? Suppose a burglar is caught with a jemmy in his pocket, which fits a mark on another door previously broken. Cannot evidence be given against him of the finding of the jemmy and the subsequent burglary?

Sir HENRY CURTIS BENNETT thought not.

The LORD CHIEF JUSTICE—Must we not distinguish between admissibility and the value of the evidence when admitted?

Mr. JUSTICE SHEARMAN—Your argument is, such evidence is inadmissible *per se*, but a particular defence may make it admissible.

Sir H. CURTIS BENNETT—Precisely. It is only when the Crown have brought themselves within particular exceptions—which they never did in this case—that it can be admissible. If this evidence was admissible, the exceptions had eaten up the law that on one indictment evidence could not be given of the facts relating to another indictment.

The LORD CHIEF JUSTICE—What is the distinction between saying, "We saw you offer the cup, and will show that you offered it on another occasion," and saying, "We show that you had opportunity and motive, and poison in your possession, and that on another occasion you actually administered it"?

Sir H. CURTIS BENNETT—The distinction is this, you must not say, "We suspect you, but, having no direct evidence, are going to give evidence to show that you are likely to poison some one." You must have proof of an act which is in itself consistent equally with guilt or innocence, then similar acts may be evidence to show guilt on that occasion. The Martin evidence could only be admitted to show that some particular act in February was a guilty act.

Counsel cited *Reg.* v. *Cotton*, [1873] 12 Cox, 400; *Reg.* v. *Heeson*, [1878] 14 Cox, 40; and *Reg.* v. *Flanagan and Higgins*, 15 Cox, 403, and had not concluded his argument when the Court adjourned.

FRIDAY, 12th MAY, 1922.

Sir HENRY CURTIS BENNETT, in continuing his argument, said that if a man charged with murder said, "I did not do it," then in his submission it did not matter whether the deceased person had committed suicide or whether somebody else had committed the murder; what was material was the mind of the person charged. Let them take the case suggested by Mr. Justice Shearman. A person was found on the ground shot, and a man was found somewhere in the neighbourhood with a gun. If his defence was "I never fired the gun," then it would be improper and

illegal for the prosecution to say, "We will show that you did fire the gun by proving that six months ago you fired at somebody else." If, on the other hand, the man with the gun said that he killed the man by accident, then they would be entitled to have the evidence that six months ago he had the misfortune to fire a gun and shoot somebody else. As the defence in the present case was, "I had nothing to do with poisoning my wife," it was illegal and improper for the prosecution to say, "We will show that you did, by inferring it from the facts of another distinct case." There was no difference between the gun and the poison. If the evidence were for the purpose of proving that the man had arsenic in his possession, then there was a distinction to that extent from the gun, but, as far as the principle of law was concerned, there was no difference.

The learned counsel cited *R.* v. *Thomas Hall*, [1887] 5 New Zealand L.R. 93, where, on trial for the murder of A by administering antimony, evidence that the prisoner six months before had administered antimony to B was tendered and admitted. On appeal, it was held that, as there was no sufficient proof that the two poisonings formed part of the same transaction, or were effected in pursuance of a common design, the conviction must be quashed. In that case antimony was found upon the prisoner, and all the facts bore a very strong resemblance to the facts of the present case.

The Lord Chief Justice—At the time of the arrest there was poison, and that kind of poison, then found on the prisoner.

Sir Henry Curtis Bennett—Yes; and that is of very great importance when one comes to consider the present and other cases—the very poison was found upon him.

Counsel read the judgment of the Court in *Hall's* case, in which it was stated that the general rule was that a crime distinct from the one with which the prisoner was charged could not be given in evidence against him. If the act which was proved, either by direct or circumstantial evidence, was an act which might be a guilty act, then there was no difference whether the evidence which proved it were direct or circumstantial, but when, as in the present case, there was no evidence of the administering of food or drink by Armstrong, then such evidence as was sought to be adduced was not admissible.

The Lord Chief Justice—Then it would be one case if a witness said, "I saw the prisoner give his wife food on various occasions," and another if a witness said, "No, I never saw him give his wife food"?

Sir Henry Curtis Bennett—The jury might have found on the evidence that Armstrong had administered poison to his wife, and if they had found that he did, then the evidence in the Martin case could not be admissible at all. How, then, could it become admissible except to show that on another occasion he had done the same thing? If, on the other hand, the jury had found—although he submitted that the evidence was all the other way—some fact consistent either with innocence or guilt, then it might have been that the prosecution were entitled to say, "We shall prove a similar act which will go to show that the act which has been already proved was intentional." The prosecution were not entitled to say, "We will make certainty more certain by showing that he did something similar at another time." The giving of food was in itself quite an innocent act. The case of *R.* v. *Geering*, [1848] 18 L.J. 215, was decided on quite a different reason. In those days medical knowledge in detecting the presence of poison in bodies was not advanced, and therefore there was a multiplication of evidence as to the symptoms which pointed to death from a particular kind of poison. Moreover, there was the distinct defence of accident raised, and there must have been the question whether there was some system in that case.

Appendix A.

Mr. Justice Avory said that he saw nothing in the report of the case about the defence or accident.

Sir Henry Curtis Bennett said that it was in the head-note.

Mr. Justice Avory—Yes, to anticipate that defence.

Sir Henry Curtis Bennett said that in the present case the prosecution was told at the earliest moment that Armstrong had nothing to do with the matter at all; therefore, accident was never before the jury. He clearly stated that the defence of accident was not to be raised.

The Lord Chief Justice said that he would like to see how far counsel's criticism of the case of *R.* v. *Geering* went. Chief Baron Pollock held, first, that the evidence went to show that the death was due to poison, and then there was evidence to show or to confirm that the death was due to the same poison. There they looked to the death of the three sons to see whether it was by accident that the husband died of arsenical poisoning.

Mr. Justice Shearman—To prove that the administration, if made, was intentional.

Sir Henry Curtis Bennett—By somebody; but the evidence went to show that it was the prisoner who administered it. It depends upon whether there is system involved, or intent, when once they got the act before the jury.

The learned counsel said that if the defence was, "I did not do it," then the prosecution was not entitled to say, "Well, we are going to show that you are likely to have done it by showing what you did in some other case." Although the New Zealand case was not binding on that Court, he did rely on it, because the facts were so similar.

The Attorney-General asked their lordships to remember that the case was differed from in this country.

Sir Henry Curtis Bennett continued reading from the judgment in that case a statement that the admission of tendered evidence depended upon previous proof of the doing of the thing charged against the prisoner. He said that he relied on the judgment in that case very much, because it was the case which was nearest to the present case.

Mr. Justice Shearman—Has it been considered here? If it has been approved of you would be in a much stronger position.

Sir Henry Curtis Bennett said that he did not think that it had been dissented from. There had been a tendency in the later cases to restrict the admissibility of evidence. He referred to the case of *Shaffner* v. *The Commonwealth*, 13 Australian Reports, where evidence was held to be inadmissible. That case was on the same lines as *R.* v. *Thomas Hall*, and was quite as strong. The prisoner was indicted for the murder of his wife by poisoning her, and there was evidence of his criminal intimacy with the wife of S. It was held that evidence that S. had died with the same symptoms as those of the prisoner's wife, who had been attended by the prisoner, was inadmissible.

The learned counsel also cited the case of *Makin* v. *The Attorney-General for New South Wales*, [1894] A.C. 57. There a man and his wife, who were baby farmers, were tried for the murder of an infant, whose body had been buried in a garden. When found, the body was in a state of decomposition. Evidence was received that other mothers had given their babies to the prisoners, and that small premiums had been paid, after which the babies had never been seen alive; also that the bodies of other infants had been discovered buried; and it was held in that case that before such evidence could be admitted there must be some evidence connecting the prisoner with the death under investigation.

The Lord Chief Justice having referred counsel to a passage in the report,

Sir Henry Curtis Bennett said that they could only admit the tendered evidence for three purposes, namely, to prove intent, or to prove that there was a system, or to rebut the defence of accident.

The Lord Chief Justice asked what was meant by rebutting the defence of accident.

Sir Henry Curtis Bennett said that it must mean that there was such a defence before the Court. The prosecution was not entitled to say, "We are going to put in the evidence on the chance of the defence being raised."

Counsel read from the judgment in *Makin's* case, at p. 65, where the Lord Chancellor said—

"In their lordships' opinion the principles which must govern the decision of the case are clear, though the application of them is by no means free from difficulty. It is undoubtedly not competent for the prosecution to adduce evidence tending to show that the accused has been guilty of criminal acts, other than those covered by the indictment, for the purpose of leading to the conclusion that the accused is a person likely from his criminal conduct or character to have committed the offence for which he is being tried. On the other hand, the mere fact that the evidence adduced tends to show the commission of other crimes does not render it inadmissible if it be relevant to the issue before the jury, and it may be so relevant if it bears upon the question whether the acts alleged to constitute the crime charged in the indictment were designed or accidental, or to rebut a defence which would othervise be open to the accused. The statement of these general principles is easy, but it is obvious that it may often be very difficult to draw the line and to decide whether a particular piece of evidence is on the one side or the other."

In reply to the Lord Chief Justice, Sir Henry Curtis Bennett said that there could be a design without a system. System might include design, but design did not include system.

Mr. Justice Avory—There must be more design in system than in an isolated case.

Sir Henry Curtis Bennett—A person designs to kill another person.

The Lord Chief Justice—How can you systematically commit crime without design? Design must include system.

Sir Henry Curtis Bennett, continuing, suggested that if Armstrong's defence had been an *alibi* this evidence could not possibly have been admitted in rebuttal of that.

The Lord Chief Justice—Suppose that the prisoner had been arrested on 24th February, and had had in his possession then this 3¾ grains of arsenic, would you say that the Martin evidence was inadmissible?

Sir H. Curtis Bennett—I should. There must be a *nexus* between the two occurrences, so as to make them parts of one transaction, as in *Reg.* v. *Geering.*

Mr. Justice Shearman—Is not this your case, there is evidence that Armstrong had opportunity and means to poison his wife. A special defence is set up, "Oh! but she had opportunity to take it herself and may have done so. The defence do not say that she did; it is not for them to prove it." The prosecution then say, "Well, we will show that you (the prisoner) had access to another man who got ill and that you had arsenic in your possession"?

The Lord Chief Justice—The result of *Makin's* case is that *Reg.* v. *Geering* is established as an authority, and *Reg.* v. *Winslow* is dissented from.

Sir H. Curtis Bennett—The rule of law is in my favour, and it is only if the prosecution establish that it comes within an exception that the evidence can be admitted. But the prosecution must bring it within an exception.

The Lord Chief Justice—In *Reg.* v. *Hall* Mr. Justice Johnston suggested that philosophy, science, and common sense might be ranged on one side and the law of evidence on the other.

Appendix A.

Sir H. Curtis Bennett—In *Reg.* v. *Rhodes*, [1899] 1 Q.B. 77, at p. 83, the necessity of a *nexus* or connection is again referred to, and in Lord Russell of Killowen's view evidence of isolated transactions cannot be given.

Mr. Justice Avory referred to the judgment of Mr. Justice Wills at p. 84—" Very often the only *nexus* between such transactions is their proximity in point of time.

Sir Henry Curtis Bennett—I draw a distinction between the offence charged in that case and a case of murder. In that case I am not saying that if there was a space of nine months between the two acts there might not be a *nexus*.

Rex v. *Bond*, [1906] 2 K.B., 389, was a case of using instruments to procure abortion. A defence was raised that the instruments were used for a lawful purpose. The commission of the act was never in dispute. In his judgment in that case Mr. Justice Kennedy said—and counsel relied very strongly on that judgment, which was the leading judgment in favour of admissibility of the evidence in that case—at p. 397 of the report—

" It is, therefore, a general rule that the facts proved must be strictly relevant to the particular charge and have no reference to any conduct of the prisoner unconnected with such charge; therefore it is not allowable to show on the trial of an indictment that the prisoner has a general disposition to commit the same kind of offence as that for which he stands indicted. . . . Thus it was resolved by all the judges nearly one hundred years ago that in a prosecution for an infamous crime an admission by the prisoner that he had committed such an offence at another time and with another person, and that he had a tendency to such practices, ought not to be received in evidence. The law of evidence, said Lord Campbell, does not allow one crime to be proved in order to raise a presumption that another crime has been committed by the perpetrator of the first. . . . Nothing can so certainly be counted upon to make a prejudice against an accused upon his trial as the disclosure to the jury of other misconduct of a kind similar to that which is the subject of the indictment, and indeed when the crime alleged is one of a revolting character, such as the charge against Bond, in the present case, and the hearer is a person who has not been trained to think judicially, the prejudice must sometimes be almost insurmountable. Therefore if, as is plain, we have to recognise the existence of certain circumstances in which justice cannot be attained at the trial without a disclosure of prior offences, the utmost vigilance at least should be maintained in restricting the number of such cases, and in seeing that the general rule of the criminal law of England, which (to the credit, in my opinion, of English justice) excludes evidence of prior offences, is not broken or frittered away by the creation of novel and anomalous exceptions."

Mr. Justice Shearman—What was Mr. Justice Kennedy's reason for holding the evidence eventually admissible in *Bond's* case?

Sir H. Curtis Bennett—He was showing the great care necessary in putting evidence before a jury; but he points out that though you must be careful not to argue from one isolated act, yet, where a long course of conduct is proved, it may be admissible.

The Lord Chief Justice—*Bond's* case had to do with a particular kind of surgical instrument. That is a somewhat rarer thing than a gun, which was mentioned in an example. The present case has to do with poison. To pass from a gun to a surgical instrument is to pass from the common to the rather uncommon, but in passing to arsenic we are going to something much more uncommon.

Sir H. Curtis Bennett—Is weed-killer more uncommon than the instrument in *Bond's* case?

The Lord Chief Justice—To find a packet of 3¾ grains of white arsenic in a solicitor's pocket is surely rare.

Sir H. Curtis Bennett—Weed-killer is common enough. A pound contains approximately 7000 grains, which costs about 2s. 6d. For that sum you could poison 3000 people. It might easily be divided up into small packets for separate weeds.

Mr. Justice Avory—Is 3½ grains just the fatal dose for a dandelion?

Sir H. Curtis Bennett—I don't know; it may be 1½ grains, but seeing that even at 3½ you could kill sixty-six for one penny, a man is not likely to take particular care whether he uses 1½ or 5½, more or less.

Counsel proceeded to cite *R.* v. *Bull*, [1911] A.C. 47, at p. 71, "Courts ought to be very careful to preserve the time-honoured law of England that you cannot convict a man of one crime by proving that he had committed some other crime; that, and all other safeguards of our criminal law, will be jealously guarded."

The Lord Chief Justice—To revert to *Makin's* case. Suppose that only one other baby had been found. Do you say that evidence would not have been admissible.

Sir H. Curtis Bennett—I do. Evidence of the finding of twelve was admissible to prove system; of one, only to rebut a special defence of accident. Not if the defence was simply "I did not do it."

The Lord Chief Justice—At an early stage of this case you intimated that it was part of the defence that Mrs. Armstrong died of arsenical poisoning. That leaves open three defences—accident, suicide, and administration by some one other than the prisoner.

Sir H. Curtis Bennett—The evidence would not be admissible if the defence was that some one other than the accused poisoned the deceased accidentally, but only if the defence was that the accused did it, but did it accidentally. It is clearly not admissible on the question, "Did he do it?" but only on the question, "With what intent?" or on the question, "Was it accident or design?" To what act of Major Armstrong that was proved was this directed?

Mr. Justice Avory—The act of administering arsenic.

Sir H. Curtis Bennett—Then it was not admissible.

Mr. Justice Avory—The prosecution's case was that arsenic was found in the body, and the prisoner was the only person who could have administered it.

Sir H. Curtis Bennett—Can it possibly be said that the case for the prosecution went nearly as far as that? Of course, he did not intend to refer to any individual, but suppose that a nurse who had the opportunity had administered the arsenic, whether by accident or design?

The Attorney-General—I pointed out at the trial that the prisoner was the only person who was at Mayfield both in August, 1920, and February, 1921.

Sir H. Curtis Bennett—The cases are reviewed in *R.* v. *Rodney*, [1913] 3 K.B., 398. That case points out that a single prior act of a like criminal nature would in general not be admissible, but that evidence is admissible to rebut a defence really in issue. The Court declined to apply the proviso to section 4 of the Criminal Appeal Act.

The Attorney-General said that he assumed the case would be resumed on Monday at 10.30.

The Lord Chief Justice replied in the affirmative.

Proceeding with his argument, Sir Henry Curtis Bennett cited *R.* v. *Barron*, 30 T.L.R. 187; 24 C.C.A. 83, where it was held that evidence of previous happenings could not be made use of to rebut the defence of innocent association. He also referred to the case of *R.* v. *Boyle and Merchant*, 30 T.L.R. 521; 1924, 3 K.B. 339.

In reply to the Lord Chief Justice, counsel said that he did not say that the evidence was admitted in *Makin's* case merely to show intent. The prosecution had to prove one thing, and the evidence was to deal with the defence set up and already before the Court.

Appendix A.

The LORD CHIEF JUSTICE said that it could not be said that the words employed by Lord Reading in the case of *R.* v. *Boyle and Merchant* were meant to be exhaustive of the purposes of the evidence.

Sir HENRY CURTIS BENNETT agreed. He cited the case of *Perkins* v. *Jeffery*, [1915] 31 T.L.R. 444; 2 K.B. 702, which came before the Divisional Court. The respondent was charged under section 4 of the Vagrancy Act, 1824, with having exposed himself with intent to insult a certain female. In her evidence the prosecutrix said that she had seen the man two months before. The respondent when arrested said, "They have made a mistake; they have got the wrong man"; and, in giving evidence on his own behalf, he denied having been guilty of the offence, and in cross-examination he said, "I do not remember seeing her on the first or second week in May." He denied that he had exposed himself on the former occasion. The justices ruled that the question should not have been put, as it was not relevant to the issue they had to determine, and was contrary to the provisions of section 1 of the Criminal Evidence Act, 1898. It was held by the Divisional Court that the question and the evidence tendered were admissible and relevant to show that the prosecutrix was not mistaken in her identification, that what was done by the respondent was done wilfully and not accidentally, and that it was done to insult her; but that the evidence tendered of other witnesses was not admissible, unless and until the defence of accident or mistake, or an absence of intention to insult, was definitely put forward, and it appeared that the other occasions on which it was said that the respondent had exposed himself were sufficiently proximate to the alleged offence as to show a systematic course of conduct.

Counsel said that the judgment in *Perkins* v. *Jeffery* was to the point.

Mr. JUSTICE AVORY—In *Perkins* v. *Jeffery* the defence put forward was a mistake of identity, but in *R.* v. *Boyle and Merchant* there was no question of the identity of the individual.

Sir HENRY CURTIS BENNETT—No; the question was whether it was a *bona-fide* or a blackmailing newspaper.

Mr. JUSTICE AVORY—Here it was a dispute whether it was the same individual who had on another occasion committed a similar offence. His whole defence was that he was not the person.

Sir HENRY CURTIS BENNETT—These cases were not a century away, but very near at hand. Quite clearly there was laid down in both of those cases the same rule that there must be a defence set up.

The LORD CHIEF JUSTICE—Do you suggest that the judgment in *Perkins* v. *Jeffery* had the effect of cutting down the effect of the judgments in *Makin's* case and *R.* v. *Geering*?

Sir HENRY CURTIS BENNETT—It certainly makes more clear what the law is than in *R.* v. *Geering*. The report in that case is unfortunately a very scanty one. If this evidence is sought to be given to prove system, it might be given before any defence is before the Court, but in the present case we have to see whether one of the defences which entitled the prosecution to give evidence of this sort was before the Court. The Attorney-General, at the trial, said that he tendered the evidence to rebut the defence of accident, if such a defence was going to be raised.

The ATTORNEY-GENERAL said that that was not what he said.

Sir HENRY CURTIS BENNETT—In order to rebut the contention, if such were made, that Mrs. Armstrong took the arsenic by misadventure.

The LORD CHIEF JUSTICE — The Attorney-General anticipated your defence by saying that the arsenic of which Mrs. Armstrong died was not taken by her herself.

Mr. JUSTICE AVORY—In opening your case to the jury about the Martin evidence, you said, "Major Armstrong is not being tried for trying to poison Mr. Martin. You are not trying that."

Sir Henry Curtis Bennett—I was dealing with what had been opened by the Attorney-General, and I had to accept the ruling of the learned judge. The jury were very surprised when they heard for the first time that they were not trying the Martin case.

Counsel went on to consider the case of *Rex* v. *Smith*, 1 Cr. App. Rep. 311, better known as the "brides in the bath case," in which the prisoner was accused of murdering his wife, by drowning her in a bath, and evidence was admitted that two other wives of the prisoner had died in baths. In that case there was proof in each case that the prisoner had had something definite to do with the bath, and in each case the relationship of the deceased to the accused was identical.

In *Rex* v. *Thompson*, [1918] A.C. 221, it is said, at p. 232, by Lord Sumner—

"Before an issue can be said to be raised, which would permit the introduction of such evidence so obviously prejudicial to the accused, it must have been raised in substance if not in so many words, and the issue so raised must be one to which the prejudicial evidence is relevant. The mere theory that a plea of not guilty puts everything in issue is not enough for this purpose. The prosecution cannot credit the accused with fancy defences in order to rebut them at the outset with some damning piece of prejudice."

The Lord Chief Justice—But must not the prosecution take the obvious defences?

Sir H. Curtis Bennett—Yes, unless they are told that they will not be raised. I cannot prevent the prosecution from proving what by the common law they are entitled to prove. I am entitled to prevent them from assuming that they are within an exception when they are not.

Mr. Justice Shearman—There is a difference between rebutting accident and proving design.

The Lord Chief Justice—If the evidence is in fact admissible, does it make any difference that the ground on which it is apparently admitted is the wrong ground?

Sir H. Curtis Bennett—It may, for when the judge comes to direct the jury it is very important that they should be correctly told what use they may make of it. When once it is admitted, the effect on the case for the prisoner is achieved. Can it be said that if a defence is afterwards raised which might have made it admissible, that cures a wrong admission?

Mr. Justice Avory—Then do you mean that if the defence is not raised until after the prosecution is closed, the prosecution cannot put in evidence without which the defence might submit there was no case?

Sir H. Curtis Bennett—It may be so; the law favours the accused.

Mr. Justice Avory—It also favours justice.

Sir H. Curtis Bennett—Evidence might be called in rebuttal.

Mr. Justice Avory—Not if no evidence was called.

Sir Henry Curtis Bennett went on to criticise the summing up, and read a long extract containing the following passages:—

"I came to the conclusion that Martin's case has a bearing upon this. What is the bearing? The bearing is this, that it is of value as showing that the defendant had arsenic in his possession and that he would use it to poison a human being. . . . If you come to the conclusion that he did give it, why, then, it has a bearing as showing what he had got in the way of poison, and what he was prepared to do with it, as showing that he was prepared not merely to use it on dandelions and things of that kind, but that he was prepared to use it on a human being. . . .

"It is quite true he is not being tried for that as a substantive crime. You will not be asked by the Clerk of Assize to say, was he guilty of poisoning Martin? You will only have to make up your minds

on it as part of this case, as helping you to come to a conclusion whether Armstrong poisoned his wife or not, and if you come to the conclusion that he did try to poison Martin, then you can start with something which will be a guide to you, a help to you, as to what the man would do with the poison he had got, whether he would use it against a human being or not, if he had what was considered a sufficient motive."

The ATTORNEY-GENERAL—All through, the prisoner's case was that he had the arsenic for a legitimate motive.

Before the Court adjourned, Sir H. CURTIS BENNETT referred to an application for leave to call five witnesses as to the use of packets of arsenic for dandelions, which was ridiculed by the prosecution.

The LORD CHIEF JUSTICE—What was ridiculed was not that arsenic would kill dandelions, but the idea that any one would weigh it out in individual doses.

Sir H. CURTIS BENNETT—It is precisely as to that I wish to call the evidence.

The Court intimated that the witnesses need not remain, and adjourned until Monday, 15th May, 1922.

SATURDAY, 13th MAY, 1922.

Sir HENRY CURTIS BENNETT, continuing his arguments on behalf of Major Armstrong, said that when the Court rose on Friday he had finished dealing with his submission about the admissibility of the evidence in relation to Mr. Martin. He submitted that there was misdirection in the summing up as to the way in which, even if this evidence were admissible, it had been stated that it ought to be applied.

Counsel next drew the attention of the Court to answers made by the appellant about the packets of arsenic which he had to kill dandelions. In cross-examination by the Attorney-General, Armstrong said, "I simply took a small quantity on a penknife. I did not weigh them. The whole thing was approximately." It was clear from those answers that there was no question there of the appellant's taking the arsenic and weighing out the amounts in the packets. In the particular instance of the arsenic found on him—$3\frac{3}{4}$ grains—there was no doubt that this would poison a human being. The evidence of the three doctors for the defence was on the lines of the cross-examination of Dr. Spilsbury and Sir William Willcox. The case for the defence was that there had been a large dose on 16th February. For the prosecution the case was that there had been continuous small doses to the end, especially within the last twenty-four hours. When he (counsel) asked, "Would the giving of a grain of arsenic per day for thirty-one days aggravate the patient's symptoms or not?" —that being the amount medically administered to Mrs. Armstrong in the asylum—the doctor said that he thought that it would retard recovery. What happened was consistent with the case for the defence that the woman was not suffering from arsenical poisoning, but was suffering from toxæmia caused by what might be called "auto-intoxication." Dr. Spilsbury agreed on that.

Turning to the evidence of Sir William Willcox, Sir Henry Curtis Bennett said that that witness agreed, when cross-examined, that a person might take a large dose of arsenic and die at the end of five or six days. The doctors called for the defence expressed their view that what had been found, and the symptoms which had been described, were consistent with the taking of one large dose of arsenic on 16th February.

Sir Henry Curtis Bennett next dealt with several matters in Mr. Justice Darling's summing up to the jury. He complained of one passage in which the judge had said that, "One would think she (Mrs. Armstrong) was a tiresome invalid." That was the first time during the course

of the case when any suggestion had been made that possibly Armstrong might be desirous of getting rid of his wife because she was a tiresome invalid. The evidence was that he was an attentive and devoted husband, and it was at his invitation that Dr. Hincks came to keep an eye on her. Another motive was here being put before the jury to show that Armstrong might desire to get rid of his wife, and it was put forward at such a time that counsel for the defence could not deal with it.

The Lord Chief Justice—Were there not other motives?

Sir Henry Curtis Bennett—Your lordship means the will and the lady?

His lordship nodded.

Counsel said that he did not read the suggestion in the summing up as being that Mrs. Armstrong was tiresome because she was in the way.

The Lord Chief Justice—Supposing that the learned judge had said—"Gentlemen, you may think from the evidence that you have here that the prisoner desired to marry another person, and you may wonder why. Do you think that he found his wife a tiresome person?" Would you have any objection as to that?

Sir Henry Curtis Bennett—No; but this was quite a different motive. It clearly reads as suggesting that Mrs. Armstrong was tiresome because of her illnesses, and the delusions from which she was undoubtedly suffering.

Counsel, continuing, said that the judge went on to say that there was no evidence that Mrs. Armstrong was downstairs after 14th February, and he (counsel) pointed out that she was downstairs on 16th February, whereupon the judge said that she was not out of doors. Then his lordship, dealing with the suggestion of the defence that she committed suicide and her conversation with the nurse about the attic window, treated what took place at the asylum as merely an attempt to escape, and said that it was only natural that she should attempt to get out of the window, adding that there was no suggestion in what she said that she had attempted to kill herself.

Counsel submitted that the evidence of Miss Pearce and that of Nurse Kinsey came to a great deal more than what the judge suggested to the jury. It was only necessary to look at the evidence to see that what Mrs. Armstrong was telling the nurse was that she wanted to go to the window to commit suicide. There could be no doubt that she had the idea of suicide in her mind, and her statement, "I have just been up to the attic. Do you think that if any person threw herself out she would break her back?" showed that she had the idea of suicide in her mind. The way in which the judge left that to the jury was that, as regarded the attic part of the story, there was the fact that she did not do it. No one said that Mrs. Armstrong attempted suicide; what they said was that she had the idea of suicide in her mind, both at the asylum and also when she came home. It was very important that the jury should appreciate, if there was evidence that suicide was in Mrs. Armstrong's mind, that it did not suddenly arise in her mind on 16th February, but that she had entertained the idea some time before. He complained of the way in which the evidence of the suicidal tendency was left to the jury. The learned judge wiped it out by saying that there was nothing in the asylum part of the story, and that at any rate she had not committed suicide.

Mr. Justice Avory pointed out that the two statements were not made by Mrs. Armstrong at the same time.

Sir Henry Curtis Bennett—No; they were made at separate times, and both were made after she came from Barnwood Asylum. In my submission that does show that this woman was not merely telling something as history, but that on two separate occasions to that same witness, and also to Nurse Kinsey, between the 23rd and the 27th, she was saying

the same thing, showing that, owing to the delusions from which she was undoubtedly suffering, Mrs. Armstrong had suicidal tendencies. It was Nurse Kinsey who said that as it was a mental case a whole-time nurse should be employed. He (counsel) did not put it higher and say that Mrs. Armstrong was attempting suicide, but he did say that she had it in her mind and the way in which it was left to the jury was to nullify the evidence on that point.

The next matter to which he desired to draw attention was that part of the summing up in which his lordship referred to what took place on the day of the death. Six hours before Mrs. Armstrong died she said to the nurse, "I am not going to die, am I?" His lordship asked whether that showed that Mrs. Armstrong had taken a fatal dose of arsenic, or was reconcilable with the theory that she committed suicide. The suggestion was, apparently, that if in fact this was said by Mrs. Armstrong, that was an end of the suicide theory. In his submission, however, words of that sort, to the common knowledge of them all, were words which were very frequently used by persons who had attempted to commit suicide, when they realised that they were faced with death. He could not give evidence on the point, but he asked their lordships to say that the general knowledge of them all was to that effect, and that there was nothing fatal to the defence of suicide that this woman had on 16th February taken sufficient arsenic to kill herself some six days afterwards, and had then, on the morning of 22nd February, made use of these words.

The evidence of Nurse Allen was that Mrs. Armstrong was certainly suffering from delusions, but this was ignored by the judge when he dealt with the evidence of Dr. Hincks, who said that he saw no signs of delusions when Mrs. Armstrong returned from the asylum. Nurse Allen said that Mrs. Armstrong was certainly suffering from delusions after her return from Barnwood House, and yet the judge put it to the jury that they were simply left to guess at the manner in which the suicide suggested by the defence was effected. If that was a proper comment about the defence, it was a comment which might be made with equal force against the prosecution.

Mr. Justice Shearman—Is the suggestion that she went downstairs and got the arsenic?

Sir Henry Curtis Bennett—Yes.

The Lord Chief Justice—Not that she got it out of the cupboard?

Sir Henry Curtis Bennett—No; that she knew where the arsenic was, and on 16th February she was downstairs teaching the little boy. I was also saying that if the prosecution were correct in saying that she was not out of the room after the 13th, she had access to the medicine chest.

The Lord Chief Justice—Was she teaching the boy in the room in which the arsenic was found at the back of the drawer?

Sir Henry Curtis Bennett—Yes, but at that time, according to the evidence, it was in the cupboard. It was not put into the bureau until May. Both the packets were in the cupboard in the room in which the boy was being taught. The evidence of the appellant was that in May he went to the cupboard and found the packet in such a condition that it appeared to have been tampered with. His (counsel's) suggestion here was that the learned judge was ridiculing the defence of suicide. His lordship left out altogether the fact that there was the evidence of Nurse Allen that Mrs. Armstrong was suffering from delusions at that time.

Then the learned judge, in referring to the medical evidence, said that they were only left to guess how Mrs. Armstrong took the arsenic. She could not hold a cup to her lips. But the evidence of Nurse Allen was that she had not sent for Dr. Hincks until the 17th.

The Attorney-General—The evidence was that Dr. Hincks was telephoned for on the morning of that day. His book was produced, and his

second visit on that day was to Mrs. Armstrong. Dr. Hincks said that he found her in bed.

Sir Henry Curtis Bennett—It only shows that these experts are speaking on the materials supplied to them of symptoms. You find here, again, an absolute dispute between the two persons on whose recollection of incidents the opinions of the doctors were formed. The learned judge is putting this case for the defence to the jury in a way in which it had never been made, and while he was putting it to the jury he was drawing attention to the fact that when Dr. Hincks was saying that Mrs. Armstrong was not able to be up, another witness said this was not till the second visit, and the appellant was saying that his wife was up and that it was after dinner that he telephoned for the doctor.

Mr. Justice Shearman—As to all these days, did the learned judge read to the jury the evidence of all the witnesses?

Sir Henry Curtis Bennett—That is what I complain of. He reads part of the evidence and comments adversely to the prisoner upon it, and later on he omits evidence in favour of the prisoner and deals with the case again, but never puts that, according to the appellant, his wife was downstairs. His lordship, when he said that the jury had to guess how Mrs. Armstrong took the arsenic, never pointed out that that comment equally applied to the case which was put for the Crown.

The Lord Chief Justice—I am not sure about the word "equally."

Sir Henry Curtis Bennett—Well, it does apply, as far as the taking was concerned.

The Lord Chief Justice—The appellant had brought the poison and knew where it was, and the evidence showed that he had opportunities of administering it. There is no evidence that he was incapable.

Sir Henry Curtis Bennett—But there was evidence that up to 16th February Mrs. Armstrong had suicidal tendencies, knew where the arsenic was kept, and had an opportunity of taking it.

Counsel said that the judge dealt with the matter again when, reading the appellant's evidence, his lordship said—"Do you honestly believe, is it credible, that that woman, being in a condition in which she was, got up with the intention of taking a fatal dose of arsenic, and went and got it? What evidence was there that she intended to commit suicide, that she got up and went to any place where there was arsenic; where did she get it, if she did? The arsenic in the cupboard was brown arsenic, so far as we know. We now have the evidence that there was white arsenic in the bureau."

Counsel said that he did object to his lordship's saying that if it was suggested that Mrs. Armstrong committed suicide by taking either the grey or the white, which did she take? where did she take it from? where did she take it? and that there was no evidence that there was any of it upstairs. The judge dealt with the matter as if there was no evidence for the defence at all. The evidence of the appellant was only read, and the defence was ridiculed.

The Lord Chief Justice—The suggestion was that on the day and in the room when she was with the little boy she took the fatal dose of arsenic from the cupboard?

Sir Henry Curtis Bennett—Yes.

Mr. Justice Shearman—If Dr. Hincks was accurate she must have got up.

Sir Henry Curtis Bennett said that no one would have commented upon the summing up if both sides had been put to the jury; but the story for the prosecution was put forward as a consistent story, while the evidence for the defence was ridiculed. So far did his lordship go in ridiculing a very serious defence based upon facts that he said that there was no evidence that Mrs. Armstrong desired to commit suicide. Counsel pointed out that there was evidence that she had the idea of

suicide in her mind. He said that the judge was actually saying to the jury that the defence had not shown whether it was white or coloured arsenic that she took; but neither did the prosecution.

Counsel also criticised a passage in which Mr. Justice Darling said that Dr. Spilsbury "was not theorising" when he said that arsenic had been taken within twenty-four hours of death. Of course, he was not theorising when he described the finding of arsenic in the body; but he was theorising just as much as the doctors for the defence when he stated how long before death the dose was taken.

Counsel next dealt with the passage in which the judge discussed the finding of the arsenic in the bureau. "It was a matter of tactics whether they should conceal it always, or produce it here." From the point of view of the defence, the finding of the arsenic was extraordinarily lucky, for there was till then no evidence that Armstrong had any white arsenic. The purchase of 11th January was believed to be grey arsenic, and if this had not been found, with the label of Mr. Davies upon it, there would have been a strong case that, in addition to the ¼ lb. of grey arsenic in January, Armstrong, from an unknown source, and for an unknown purpose, had got white arsenic as well. Mr. Justice Darling had expressly said that no reflection rested upon Mr. Matthews for the course that he took.

The Lord Chief Justice—But, equally, no reflection would have rested on the defence if they had disclosed it earlier to the police.

Sir Henry Curtis Bennett said that he accepted full responsibility for the course pursued.

Mr. Justice Shearman asked whether the discovery of the small packet of white arsenic in Armstrong's possession could possibly be evidence in the Mrs. Armstrong case. He could not have it in his possession for the purpose of murdering a woman who had been dead twelve months.

Sir Henry Curtis Bennett said that he did not think that if the case of Mrs. Armstrong alone had been before the jury, the finding of that little packet could be admissible. It came within the same rule of law as the rest of the Martin evidence. If he had inadvertently appeared to admit its admissibility in answer to a question from their lordships, he would reconsider any such admission.

The Lord Chief Justice—Here is a man arrested on 31st December, charged with attempting to murder a man with arsenic; owing to similarity of symptoms his wife's body was exhumed, and arsenic was found. Do you say that evidence of the fact that the very sort of poison is found upon him is inadmissible?

Sir H. Curtis Bennett—I should have thought that it was not admissible. It was eleven months afterwards.

The Lord Chief Justice—I thought that you had admitted that the question of time did not affect the admissibility of the Martin evidence.

Sir H. Curtis Bennett—I must draw a distinction between the rest of the evidence and the possession of the poison. I do not think that the possession of arsenic eleven months after can be evidence.

The Lord Chief Justice—Suppose a person was murdered with some peculiar and unusual weapon, and ten months later a person is arrested for the murder, and one of these rare weapons is found in his possession. Surely it would be admissible?

Mr. Justice Shearman—There was a defence here set up of legitimate use. Is it not admissible to rebut the case made by Armstrong that he got the arsenic as weed-killer?

The Lord Chief Justice—It may have been the duty of the prosecution to explore the history of that packet of arsenic.

Sir Henry Curtis Bennett, drawing his argument to a close, said that the strongest ground of appeal was the admission of the Martin

evidence, which was not legal, as it was only admissible to show design, rebut accident, or show system. Not one was applicable here. The defence set up was, "I did not do it," and on the cases the position was now, as always, that a man must not be tried on one indictment and the jury given the facts on another to prove that he was a man likely to commit this act.

What was the exception to that rule within which the prosecution brought themselves before the trial? Within what exception did they bring themselves at any time before the end of the trial? Even if the evidence were admissible at all, the judge wrongly directed the jury, and told them to use it for a purpose for which they were not entitled to use it.

The Lord Chief Justice—Have you considered that it is at the very time at which the appellant is writing to get his wife from the asylum he is getting ¼ lb. of white arsenic. Was it not very important to show with what design he bought it? Of course, any defence must allege an innocent purpose. Here you start with a definite act—the purchase of arsenic. Is it not material to show with what design, as in *Makin's* case, [1894] A.C. 57, it was material to show how the baby came to be buried in the prisoner's garden?

Sir Henry Curtis Bennett—*Makin's* case proceeded on system, and there was a *nexus* between the cases.

The Lord Chief Justice—Do you say that in *Geering's* case, 18 L.J. M.C. 215, the prosecution had to show that all the murders were intended before the first was committed?

Sir Henry Curtis Bennett—No; it is enough to show, as in *Makin's* case, that No. 1 was killed for the same motive as Nos. 2, 3, and 4.

Mr. Justice Avory—Suppose Armstrong had benefited financially by the death of Martin, would it not have been admissible?

Sir Henry Curtis Bennett—Then the question of time might have been very important.

The Lord Chief Justice—The coincidences of truth are sometimes very remarkable: the coincidences of falsehood may be sometimes no less remarkable. On this very 11th January Dr. Hincks is writing to Dr. Townsend, of Barnwood, that Armstrong tells him that her delusions seem to be cured.

In conclusion Sir Henry Curtis Bennett said that, while he did not rely upon it, he deplored the conduct of a member of the jury in giving an interview for publication as to the deliberations of the jury.

The Lord Chief Justice—It is a disgraceful and shocking thing.

Mr. Justice Avory—It may be fairer to the jury to assume that it never happened, though that would not exonerate the newspaper.

Mr. Justice Shearman—I see no reason to assume that it did not happen.

Mr. Justice Avory—I don't believe everything I see in the press.

The Lord Chief Justice—This was not a member of the grand jury. The grand jury is bound by oath not to divulge their proceedings, and a person violating that oath would be liable to severe penalties.

Sir Henry Curtis Bennett—I cannot make any further use of the episode, but the making of such a statement, if it were made, and the publication of it has added a great deal to the misery of those connected with the prisoner. Misery enough was theirs without its being increased in this manner.

The Attorney-General's Argument.

The Court intimated to the Attorney-General that he might assume that each member of the Court was fully aware of all the facts, and that they did not desire any argument on the facts. They wished to hear him

on the question of the admissibility of the Martin evidence and on the passage of Mr. Justice Darling's summing up, in which he dealt with the Martin evidence. [The material sentences are quoted in full in the report of Friday's hearing.]

The ATTORNEY-GENERAL—Sir Henry does not deny the existence of the rule under which the Martin evidence was admitted, but he says that the admission of this evidence has gone beyond it; he tries to restrict the rule. I think I could answer him by the single case of *Rex* v. *Thompson*, [1918] A.C. 221, in the House of Lords, but he has been good enough to refer to the earlier cases, not only exhaustively, but very fairly, so I will make a few observations on them. This is no new point, but only the application to particular facts of a principle already well known. (He cited the remarks of Lord Sumner to that effect in *Rex* v. *Thompson*.)

This evidence was admitted because it was relevant to the issue before the jury, which was whether the arsenic was legitimately and innocently in the prisoner's possession or not.

In this particular case the prosecution set out to prove that the death of Mrs. Armstrong was caused by arsenic, and by arsenic administered by the prisoner. The legal argument took place at a time convenient to the defence, and the defence did admit that Mrs. Armstrong died of arsenical poisoning, but did not tie themselves to the defence of suicide, nor throw away any defence legitimately open to them. They said that the prisoner had nothing to do with it. The prosecution had to prove that the arsenic was administered by the prisoner. We proved that the prisoner was the only person at Mayfield, both in August, 1920, and in January and February, 1921. Miss Pearce was away in August. We proved that he had purchased arsenic on both occasions. He had arsenic in his possession on his arrest. Before his arrest on 31st December, when asked if he would make a statement, he volunteered to make a full and complete statement. That statement was important. It was dictated, but corrected by the prisoner himself. It began by saying that he "wished" to make the statement. He stated there that he was keeping the arsenic of 11th January to make a further trial of it as weed-killer later on. So far as he (Armstrong) knew, no one else knew of the presence of arsenic in the house.

Mr. JUSTICE SHEARMAN—What was the size of the small packet of arsenic found on him? How was it folded? Is it here?

The ATTORNEY-GENERAL—Yes, my lord. It was described as being folded like a teething-powder.

Mr. JUSTICE AVORY—I'm afraid we can't take judicial notice of that.

The packet was produced and handed to Mr. Justice Shearman.

The ATTORNEY-GENERAL—I cannot say whether it was folded exactly like that, as it has been handled by several people, but that is the same paper and the same arsenic inside it.

Continuing, the evidence is admissible on this ground: here is a statement, "I have arsenic in my possession." White arsenic is not common, and its possession can usually be attributed to a particular reason. The presence of a common thing like a gun in a prisoner's possession would require no explanation; arsenic does. This man, whom I was marking out as one who had opportunity to commit this crime, had said, "Yes; I had arsenic in my possession for a legitimate purpose." I am entitled to show, "No; you had it for an illegitimate purpose, for I can show that on a certain day you used it to attempt to murder Martin."

There is still another point. Armstrong's statement definitely says that the 1921 arsenic was coloured with charcoal. He is found in possession of white arsenic, which might have been innocent. By this evidence his possession was coloured.

Continuing his argument on *Rex* v. *Thompson*, the Attorney-General said—The possession of the articles identify the man and negative the idea of innocent possession. We showed that Armstrong was in possession of white arsenic, which might have been innocent. By this evidence we negatived the idea of innocent possession, and identified him as the man who had the means to commit arsenical poisoning.

He began to deal with the other cases, and pointed out that the principle was older than *Reg.* v. *Geering*. There were cases as far back as 1817.

The Lord Chief Justice—*Makin's* case makes a new start. There is no need to go back to the earlier cases which were reviewed there. Let it be conceded that the possession of arsenic on 31st December may be material to show the intent of the purchase in January; but how can it be material to the murder of Mrs. Armstrong in February that he attempted to poison Martin in October?

The Attorney-General referred to *Rex* v. *Bond*, [1906] 2 K.B. 389, at p. 42. The relevance depends on the issues actually in contest.

Mr. Justice Shearman said that it seemed to him that *Rex* v. *Bond*, [1906] 2 K.B. 389, was the nearest case to the present one.

The Attorney-General said that he had some difficulty in understanding what was meant by "system." To say at the outset that, because they proved two, three, or four cases, they must necessarily attribute a system, went beyond the facts.

Mr. Justice Shearman said that he saw that, but those who sat there were bound by the dicta of their predecessors.

The Attorney-General said that he also found a difficulty in the word "*nexus*." He did not see how it applied as regarded law.

The Lord Chief Justice—Suppose you say "link."

Mr. Justice Avory—Or "in connection with."

The Attorney-General—Then I should be on safer ground.

Mr. Justice Shearman—These words are like the word "Mesopotamia."

The Attorney-General went on to say that they must show intent in reference to the acts in which it was in dispute.

Mr. Justice Shearman said that again it was like the case of *Rex* v. *Bond*, because there was one charge and one other charge brought forward. The defence set up was, "I am a doctor, and I have a right to possess an instrument which is used for legitimate purposes." It was sought to prove that he used it for illegitimate purposes. The case was very like the present one.

The Attorney-General said that the issue of innocence or innocent possession found further confirmation in *R.* v. *Ball*, [1911] 27 T.L.R. 162; A.C. 47, which was an incest case. There Lord Loreburn said that "certain evidence, which was obviously admissible, was given to establish that at all events there was ample opportunity for the offence. . . . Further evidence was then tendered to show that these persons had previously carnally known each other and had a child in 1908. . . . The law on the subject is stated in the judgment of Lord Chancellor Herschell in *Makin* v. *Attorney-General for New South Wales*, [1894] A.C. 57, 64. In accordance with the law laid down in that case, and which is daily applied in the Divorce Court, I consider that this evidence was clearly admissible on the issue that this crime was committed—not to prove the *mens rea*, as Mr. Justice Darling considered, but to establish the guilty relations between the parties. . . ."

The Attorney-General also cited *R.* v. *Bodley*, [1913] 29 T.L.R. 700; 3 K.B. 468, where the Court of Criminal Appeal held that the evidence was not admissible. There, Mr. Justice Bankes, giving the judgment of the Court, referred to *R.* v. *Ball*, and said that the first ground given by the Lord Chancellor for the admissibility of the evidence suggested

an extension of the rules indicated in the cases cited, but the second ground came within the rule that evidence was admissible to rebut a defence really in issue.

R. v. *Lovegrove*, [1920] 3 K.B. 643, carried the case still further. There the appellant was indicted for unlawfully killing, and for feloniously using certain instruments to procure the miscarriage of, a certain woman. At the trial evidence was given for the prosecution by the husband of the woman that, having obtained the appellant's name and address from another woman, he went to the appellant's house and arranged with her for his wife to go there in order that the appellant might perform an operation on her which would procure a miscarriage, and that his wife subsequently went to the appellant's house and afterwards had a miscarriage and died of septic abortion. The evidence of the other woman was tendered by the prosecution to show that the appellant had performed a similar operation on her some months previously. The evidence was objected to on the ground that the defence was a denial of the husband's evidence, and that the appellant had never seen the deceased woman. The evidence was admitted, and the appellant was convicted. The Court of Criminal Appeal held that the evidence was rightly admitted, as it tended to corroborate the husband's evidence, and was therefore relevant to an issue before the jury, and that the conviction must be upheld. Lord Reading, in giving the judgment of the Court, said that evidence was admissible if it tended to prove that the prisoner had committed the act charged. The evidence of Mrs. T. was admissible if it was relevant to an issue before the jury, and it was none the less admissible, though it might prove that the appellant had committed a similar crime on a previous occasion.

That, said the Attorney-General, was a remarkable case, because there one of the issues was whether the husband's evidence was true, so that, in a sense, a side issue was treated as relevant and before the jury. It rebutted the defence set up, and showed that the appellant's story was untrue. All those cases, he claimed, justified him in saying that one of the issues raised on which evidence was admissible was the question, "Was possession of arsenic in the present case innocent and legitimate, or not?"

The Lord Chief Justice—Possession at what time?

Mr. Justice Shearman—Some time before the death of Mrs. Armstrong.

Mr. Justice Avory—Down to February.

The Attorney-General—Yes. Was his story true that he kept it in the house to poison weeds?

The Lord Chief Justice—You say, "No, you kept it for the purpose, *inter alia*, of poisoning Martin; therefore we cannot believe you; and because you kept it for the purpose of poisoning Martin we think that you may have used it to poison your wife."

The Attorney-General—I should put it stronger than that. I should say, "You are in possession of arsenic; that needs explanation. You give an explanation; you suggest and tie yourself to an explanation that you bought it in its coloured form only for weeds. We prove that you got white arsenic, and that you used it for other purposes, and it was not confined to the innocent purpose that you suggest."

The Lord Chief Justice—Innocent possession would be negatived by Martin and its effect upon Mrs. Armstrong.

The Attorney-General—The question is, does it throw light upon it, or tend to prove? It is not the only evidence I rely upon, that because you (Major Armstrong) intended to poison Martin, I show that you poisoned your wife. I show that long before Mrs. Armstrong went to the asylum the appellant was poisoning his wife. Before she went to the asylum the appellant had secured a sleeping draught for her on 15th August, and the doctor then found traces of arsenical poisoning. It was found that while she was living at home, and under her husband's care, there was a trace, an indication, of what was consistent with arsenical poisoning,

and she became very bad when she was removed to the asylum, yet when she was in the asylum all the symptoms passed away.

The Lord Chief Justice—You put it that the appellant had tried to poison his wife in the previous August?

The Attorney-General—Most certainly. Then the appellant gave reasons against his wife's provisional release. The real and convincing points of how she came to die of arsenical poisoning in February were these—Nurse Kinsey employed from 23rd to 27th January. She was succeeded by Nurse Allen. Dr. Hincks visited the patient from time to time. On 11th February he found symptoms of arsenical poisoning.

The Lord Chief Justice—Was it ever suggested on the part of the defence that Mrs. Armstrong was trying to commit suicide by gradual poisoning?

The Attorney-General replied in the negative. He added that the appellant told him, in cross-examination, that he had no fear of his wife committing suicide when she came out of the asylum.

The Lord Chief Justice said that they need not trouble the Attorney-General to proceed further.

Sir Henry Curtis Bennett, asked whether he had anything to add, drew attention to another passage in the summing up of Mr. Justice Darling, of which he (counsel) complained. He submitted that the facts in *R.* v. *Lovegrove* had no bearing at all upon the present case.

Judgment.

The Lord Chief Justice said—In this case the appellant was convicted before Mr. Justice Darling, at the Hereford Assizes, on 13th April last, of the murder of his wife, and was sentenced to death. He appeals against conviction, and the points of substance raised by the notice of appeal are (1) that evidence of an attempt to poison one Oswald Norman Martin, some eight months after the death of the appellant's wife, ought not to have been admitted; and (2) that on that evidence the learned judge misdirected the jury. There is no need to repeat the facts in detail. It is enough to say that, in the opinion of this Court, the evidence was amply sufficient to justify the verdict of the jury, even though nothing relating to Martin were taken into consideration. That evidence proved, among other things, that the appellant's wife died on 22nd February, 1921, of arsenical poisoning; that a fatal dose of arsenic was administered to her within twenty-four hours of her death; that she suffered from the same kind of poisoning both in August, 1920, before her removal to an asylum, and in February, 1921, soon after her return home; that the appellant purchased arsenic shortly before each of those occasions; that he was the only person who, on both occasions, had the opportunity of administering arsenic to his wife; and that his possession of arsenic, made up in small packets of fatal doses, including the packet found upon him at the time of his arrest, was not consistent with any legitimate purpose.

The evidence further went to show that he had a twofold motive for murder, namely, the desire to obtain the benefit to be derived under a new will made by his wife in July, 1920, and the desire to contract another marriage. The suggestion that his wife committed suicide was refuted, not only by the words which she used on more than one occasion towards the end of her illness, but also by her physical condition, which, for a considerable time before her death, made it impossible for her to leave her bed.

As to the question of the admissibility of the evidence relating to Martin, it is to be observed that the decision in *Reg.* v. *Geering*, [1849] 18 L.J. M.C. 215, was established as an unquestionable authority by the decision in *Makin* v. *Attorney-General for New South Wales*, 10 T.L.R. 155;

[1894] A.C. 57. The only difference between *Geering's* case and the present case is that, while in *Geering's* case there was evidence of the actual administration of food which might have contained arsenic; in the present case there was evidence of the opportunity for such administration, strengthened by evidence of possession of arsenic by the appellant at the material times, a fact which does not appear in the report in *Geering's* case.

In the opinion of this Court, it would suffice to say that on the authority of *Geering's* case the evidence which is here complained of was admissible. But it is suggested that, in the absence of direct evidence of some act done by the appellant towards the commission of the crime with which he was charged, evidence as to the subsequent attempt on the life of Martin in October, 1921, was inadmissible, because at an early stage of the trial counsel for the appellant intimated that the defence would be that Mrs. Armstrong committed suicide by taking arsenic, and that no defence of accidental poisoning would be raised. Counsel for the appellant, it may be added, in his argument before this Court, very properly stated that he sought to make no point of the fact that the events relating to Martin were subsequent to the death of the appellant's wife; and, moreover, that the lapse of time, between February and October, 1921, was immaterial.

Now, in the opinion of the Court, an intimation given by counsel at an early stage of the case as to the defence upon which he proposes to rely cannot preclude the prosecution from offering any necessary evidence to show that the accused committed the crime. It was an essential part of the case for the prosecution here to prove that arsenic was designedly administered by the appellant to his wife, and any evidence that tended to prove design must of necessity tend to negative accident and suicide. A few days before her last illness began the appellant's wife had been brought home from the asylum at the request, and in consequence of the diligent negotiations, of the appellant himself. The evidence showed that those negotiations and requests began on or about 10th January, 1921, and that on 11th January, the appellant purchased a quarter of a pound of white arsenic and took it home.

With what design did he make that purchase, and provide himself at that particular time with that poison? Was it for the innocent purpose of destroying weeds, or for the felonious purpose of poisoning his wife? The fact that he was subsequently found, not merely in possession of, but actually using for a similar deadly purpose, the very kind of poison that caused the death of his wife was evidence from which the jury might infer that that poison was not in his possession at the earlier date for an innocent purpose, and such use of the same poison is more cogent than the mere fact of death from the same poison, as in *Geering's* case. See *R.* v. *Thompson*, 34 T.L.R. 204; [1918] A.C. 221, and the illustrations there given.

Reference was made in the argument in the present case to the case of *Perkins* v. *Jeffery*, [1915] 31 T.L.R. 444; 2 K.B. 702. But the decision in that case was not inconsistent with the decision in *R.* v. *Boyle and Merchant*, [1914] 30 T.L.R. 521; 3 K.B. 339. Lord Reading was a party to both decisions, and the decision in *R.* v. *Boyle and Merchant* (*supra*) was cited in support of the later decision. The distinction is that in *Perkins* v. *Jeffery* (*supra*) identity was in dispute, and, until that was established, evidence of design or intention was not relevant. In the opinion of the Court, *Geering's* case (*supra*) and *R.* v. *Garner*, [1864] 4 F. and F. 346, are not so strong as the present case, and the facts of the present case are stronger in favour of the admission of the evidence complained of.

There was the clearest possible evidence that the appellant, on 11th January, 1921, purchased a quarter of a pound of white arsenic, and that when he was arrested on 31st December, 1921, he had in his pocket a packet containing a fatal dose of white arsenic. In these

circumstances, so soon as he stated the defence, as he did at once, that he bought and was keeping the poison for the innocent purpose of destroying weeds, it was open to the prosecution to show by means of the evidence relating to Martin that the appellant neither bought nor kept the poison for that pretended innocent purpose. The question which is involved here, as Lord Sumner said in *Thompson's* case, 34 T.L.R. 204; [1918] A.C. at 236, "raises no new principle of law; it elucidates no new aspect of familiar principles. It is a mere question of the application of the rules of evidence to this particular case."

As to the summing up of the learned judge, exception was taken to the passage—

"I came to the conclusion that Martin's case has a bearing upon this. What is the bearing? The bearing is this: that it is of value as showing that the defendant had arsenic in his possession, and that he would use it to poison a human being. Let me say at once, if he is not proved to have given arsenic to Mr. Martin with intent to injure him and kill him, if you come to the conclusion that he did not do that, then all the evidence in Martin's case has no bearing whatever upon this case—none at all. But if you come to the conclusion that he did give it, why, then, it has a bearing, as showing what he had got in the way of poison and what he was prepared to do with it; as showing that he was prepared, not merely to use it on dandelions and things of that kind, but that he was prepared to use it on a human being if he had what to him appeared sufficient reason to do so."

If that passage meant, or, in the circumstances, was likely to be understood to mean, that the appellant was a man who was in the habit of committing, and might be expected to commit, this particular crime, then it would obviously be a misdirection, and the proviso to section 4 of the Criminal Appeal Act would have to be considered. But it is difficult to imagine that the learned judge, with or without the authorities before him, intended to convey any such thing. To any intelligent person who was present at the trial, or who has read the transcript of the evidence, the speeches of counsel, and the summing up, it must be obvious that the particular passage was directed to the plain question that had emerged, namely, did the applicant buy and keep this poison, as he alleged, for the innocent purpose of destroying weeds, or did he buy and keep it, as the prosecution alleged, for a felonious purpose? Nothing is less useful in such a controversy than to take a particular sentence from the whole of a voluminous context, and to approach its examination for the purpose of establishing a certain criticism. The proviso to section 4 of the Criminal Appeal Act does not, in the opinion of the Court, arise. But in any event it was the evidence, and not the reason for its admission, that must have influenced the jury; and we are clearly of the opinion that the jury in this case would certainly have returned the same verdict, even if the summing up had not contained the passage to which reference has been made.

In these circumstances this appeal is dismissed.

It remains to mention a separate matter. Reference has been made in the course of the argument to the fact that, after verdict, there appeared in some newspapers an account of what the writer said was said to him about the evidence, with a complete lack of reserve, by a member of the jury. Whether what was published was in fact said is not certain. But it is at least certain that it was published. In the opinion of this Court, nothing could be more improper, deplorable, and dangerous. It may be that some jurymen are not aware that the inestimable value of their verdict is created only by its unanimity, and does not depend upon the process by which they believe that they arrived at it. It follows that every juryman ought to observe the obligation of secrecy which is comprised in and imposed by the oath of the grand juror. If one juryman might communicate with the public upon the evidence and the verdict, so might his colleagues also;

and, if they all took this dangerous course, differences of individual opinion might be made manifest, which, at the least, could not fail to diminish the confidence that the public rightly has in the general propriety of criminal verdicts. Whatever the composition of a British jury may be, experience shows that its unanimous judgment is entitled to respect. That respect, with all that it involves, is not lightly to be thrown away; and it is a matter of supreme importance that no newspaper and no juryman should again commit the blunder, to use no harsher word, which has disfigured some of the reports relating to matters connected with the trial of this case.

APPENDIX B.

Armstrong's Fight for Life.

By Harold Greenwood.

(From *John Bull*, April 22, 1922, by permission.)

Many brilliant pens have been at work during the past fortnight depicting the salient features of the Armstrong trial. There is, of course, a magnetism about a murder trial; drama enters naturally into it; and everybody is fascinated to watch the long drawn out struggle between the Crown and leading Counsel for the Defence, ranging around the silent figure who for the most part can only sit helpless in the dock awaiting an issue which for him means liberty or—death.

But when I read these brilliant descriptions of the trial, I feel that in one sense they fall short of the reality. They are, of necessity, written from the *outside*. Only the unfortunate creature who has himself been "the man in the dock" during such a tremendous ordeal as that arising from a charge of murder can begin to understand the *inward*, hidden drama concealed from superficial observers.

If the stuffy and inconvenient Court House at Hereford—which I have visited professionally on several occasions—be substituted for the still more vilely ventilated and poky Assize Court in Carmarthen Town, I could very well imagine that the dreadful experience I passed through some fifteen months ago was being repeated as a sort of ghastly nightmare.

It will readily be understood that, try as I will, I cannot help making a mental comparison between these two trials which are so remarkably similar in their characteristic details.

When I read that the prisoner in the dock appeared "calm," "stolid," "animated," or "smiling," I recall how unreal and futile such phrases seem when read after the ordeal is over. I had a bundle of newspapers to look through on the day following my acquittal—and they taught me a lesson. For as a lawyer I have frequently defended men who claimed they were innocent. Mostly I had been led to form my own opinion to a large extent by the appearance of the accused in the dock. Facial calmness or agitation, and the composed or distressed attitude of the prisoner—is a dangerous index of the guilt or otherwise of any person.

For consider. The majesty of the Law may well be described as a terror to evildoers: it may also be a frightful menace to the innocent.

While this Armstrong drama unrolls its slow length like a legal kinema played out in incredibly dingy and dusty setting, I go back in memory to my own experience.

To be arrested, safely caged up, to become the centre of universal comment, to know that one's business, built up with such care, is daily falling to ruins, to be cut off from the world of home and friends, and to be faced with the most atrocious charge that can be laid against any man—that of subtle, secretive poisoning of a wife; that is sufficiently agonising.

But there is another aspect, perhaps more dreadful.

It is the business of the Crown, when once a prosecution has been decided upon, to press the case with the utmost industry. And remember, the Crown does not stop for money. Inquiries are made regardless of cost; expert evidence is paid for without the need of economy; witnesses are found and maintained by the Crown. In short, the case against the accused is built up without the necessity for stinting money.

But the position of the defendant is quite different. He is, literally, fighting for his life. "Skin for skin, all that a man hath will he give for his life," said patient Job. And when a man finds himself faced with a murder charge, not the least part of his torment is one of ways and means.

Owing to our antiquated assize system there is a possibility that the accused may spend several months in gaol. There is no hope of bail. Week after week he waits and waits for the ordeal, knowing that by some means, even if it ruin him, he must raise sums of money for the building up of the defence, the briefing of counsel, the maintaining of witnesses during the trial, and the costly evidence of experts to rebut the evidence given by the Crown's "star" medical and scientific men.

I spent several months in Carmarthen Gaol. I was racked with anxiety as to how the ways and means of my trial could be found. And then when the day came that I took my place in the dock before a battery of curious eyes, my "careworn appearance" was adversely commented upon in some quarters. I dwell upon this to let the unthinking realise what the prisoner has been passing through before he stands up to plead.

Then, should he falter, he is exposed to the fear that this may be written down as a consciousness of guilt; or should he by an iron effort face his judge and jury with a show of calmness, he is "jaunty" and "coolly composed." Well indeed have I learned the lesson that the demeanour of a prisoner is but little to go upon.

Only those who have been the man in the dock, too, can realise the awful sensation of listening to leading counsel for the Crown "opening the case." A helpless, suffocating sense of impotency, and doubly so when the prisoner is a lawyer.

It sounds black—black to the point of certainty. The lightest action assumes a sinister appearance; a chance word becomes ominous; letters are found to foreshadow violence; *motive* is harped upon. This is legitimate, of course, from a forensic point of view. Our Crown lawyers are scrupulously fair, but their business is to prosecute, and "with the utmost rigour of the Law."

When the Attorney-General in Hereford Court went on in his silken tones constructing the case against Major Armstrong he did it with a fairness that was beyond reproach—but with a forensic skill that was unutterably deadly.

And I know what the prisoner felt! Helpless, trapped, overborne. He steals a glance at the jury and sees that every word is telling. That is almost the worst moment in the trial.

My refuge during the trial was the knowledge of the scrupulous impartiality of the Judge. And at Hereford I was struck with the skill and wisdom with which Mr. Justice Darling held the balance between the great advocates on either side.

The jury of necessity are swayed backwards and forwards by the skill of contending counsel. I remember that when a telling point was made by the Crown against me I simply dared not look at the jury.

Then, too, there is the ordeal of going into the box. Many a time in former days I have urged a man to go into the witness-box, and have drawn an adverse conclusion if he has hesitated. I have changed my views upon that point now.

It is an ordeal that can never be realised except by those who have been through it. After being worn out with some days of unparalleled strain in the earlier stages of the trial, the prisoner "goes into the box." The eyes of the crowd watch every motion, the twitch of his face, and the fluttering of his hands. He knows that he will be exposed to a pitiless hail of questions from an expert in the art of interrogation. If he answers too fully he will be admonished to be more "direct"; if he replies briefly, a raised eyebrow or the inflection of a voice, the darting of a meaning look by counsel at the jury may influence their minds.

For my part I was told afterwards that I seemed perfectly "cool and composed." In fact I was on the verge of a breakdown, only sustained by the knowledge that if I did not keep my head I was lost. For weeks afterwards I felt the strain of that ordeal. It was, of course, a perfectly fair cross-examination. But those who talk lightly of the prisoner's attitude under examination should bear in mind facts such as I have been describing.

And then comes the suspense of waiting for the verdict.

The Judge's summing up has preceded this, of course, and I suppose to a lawyer this is more painful than can be described. For a trained legal mind can appreciate exactly the effect upon the jury. As minute by minute the cultured, measured voice flows on, hope seems to evaporate. And so at last the jury are dismissed to deliberate, the Judge seeks his private room, and the court buzzes with expectation.

The prisoner is taken below to wait. Ah! that waiting. Never can I forget those moments like eternity while the jury deliberated upon my Fate. The attendant policemen were kind and considerate, but they were only policemen. After all the months of racking anxiety I really felt that those minutes of suspense were more than I could bear. Then suddenly there was a fresh bustle of excitement and I found myself being ushered up the dock stairs again.

It seemed an eternity while the Clerk of Arraigns was interrogating the middle-aged foreman of the jury. How slow, how impossibly deliberate he seemed! Until amid a deathly hush I heard him murmur: "Not Guilty!" Then the dock doors were open and I was free again. But I draw a veil over that.

I have followed very carefully the Armstrong drama, and naturally I can write about it from a feeling heart. It does seem to me an injustice that the accused's counsel does not have the last word with the jury. Of course, if the accused does not go into the box, calls no witnesses, and puts in no documents, he has this advantage; but on the other hand an adverse opinion must be formed by the jury if a prisoner does not give evidence upon his own behalf.

It is a fearful, unbelievable thing to be tried for your life. But terrible though the ordeal was, I am perfectly certain that British justice is scrupulously fair to the accused. Nevertheless, only those who have been charged with murder can realise the exact nature of the ordeal.